

## CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## INVESTIGATION REPORT

OTHER AGENCY

CASE NO. 83-422

83-003451

1. COMPLAINANT	C-1	COMPLAINANT (LAST NAME)	Baker	FIRST	Richard	MIDDLE	J.	DOB	12/4/53		
	ADDRESS	134 Judd Falls Road				COUNTY	Tompkins	PHONE	257-2696		
	EMPLOYER	312-C Fernow Hall		256-3191		OCCUPATION	Grad Student (part)				
	PLACE OF OCCURRENCE "SPECIFIC LOCATION"	312-C Fernow Hall									
	DATE REPORTED	3/5/83	DAY REPORTED	Sat	TIME REPORTED	1400	DATE OCCURRED	3/4-3/5/83	DAY OCCURRED	Fri-Sat	TIME OCCURRED
RECEIVED BY	PO Brune		HOW RECEIVED		In Person		WEATHER			<input type="checkbox"/> CLOUDY <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> SLEET <input type="checkbox"/> FOG <input type="checkbox"/> SNOW	
CHARACTER OF CASE	Burglary										


2. M.O.	TYPE OF BLDG.	Academic		SECURED	YES	ENTRY	
	MODE OF ENTRY OR MANNER COMMITTED	T-1 climbed over partition and removed P-1 & P-2					
	TOOL, WEAPON OR METHOD USED						

3. PROPERTY	CODE:	STOLEN (S)	USED IN CRIME (C)	CRIM. MISCH. (M)	RECOVERED (R)	EVIDENCE (E)	OTHER (O)	MONETARY VAL.
	NO.	CODE	QTY.	DESCRIPTION				
	P-1	S	1	Biometry, 2 <sup>nd</sup> ed. by Robert R. Sokal & F. James Rohlf				31.95
	P-2	S	1	The Life of Birds 3 <sup>rd</sup> ed. by Joel Carl Welty				22.45

4. VEHICLE	V-1	<input type="checkbox"/> USED IN CRIME <input type="checkbox"/> ACC. NON-MV <input type="checkbox"/> CRIM. MISCH. <input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED <input type="checkbox"/> OTHER						
	DESCRIPTION - MAKE		YR. MFG.	REG. NO.	STATE			
	COLOR	BODY - MODEL	VIN - ID NO.	STOLEN MV - KEY IN IGNITION		YES	NO	
			RECOVERED - RUNNING CONDITION		YES	NO		

5. WEAPON	W-1	<input type="checkbox"/> USED IN CRIME <input type="checkbox"/> LAWFUL SURRENDER <input type="checkbox"/> UNLAWFUL POSS. <input type="checkbox"/> STOLEN <input type="checkbox"/> OTHER						
	<input type="checkbox"/> REVOLVER <input type="checkbox"/> PISTOL <input type="checkbox"/> RIFLE <input type="checkbox"/> SHOTGUN <input type="checkbox"/> OTHER	MAKE - TYPE/MODEL		CAL.-GA.	OWNER OR REGISTRANT			
		SERIAL NO.		UNLOADED <input type="checkbox"/> LOADED <input type="checkbox"/>	ADDRESS			
		FINISH: BLUE <input type="checkbox"/> SILVER <input type="checkbox"/>		TOT. CAPACITY	PISTOL PERMIT NO.			
		<input type="checkbox"/> OTHER		RDS. FIRED	DATE ISSUED			
		UNEXPENDED RDS.		COUNTY OF ISSUE				

6. DOCUMENT	D-1	TYPE DOCUMENT	NAME OF RECEIVER		REASON:		<input type="checkbox"/> NO ACCT. <input type="checkbox"/> ACC. FORGED <input type="checkbox"/> INSUFF. FUNDS <input type="checkbox"/> FORGERY	
	NAME OF MAKER - I.D. OR ADDRESS GIVEN				IDENTIFIABLE:		YES <input type="checkbox"/> NO <input type="checkbox"/>	
	BANK DRAWN ON - ADDRESS				DOC. NO.		PHOTO - SUSPECT	
					YES <input type="checkbox"/> NO <input type="checkbox"/>			
	DOCUMENT AMOUNT		MONEY, PROPERTY OR SERVICE OBTAINED					

7. DAMAGE	DESCRIBE OR LIST PHYSICAL DAMAGE OR ANY OTHER LOSS							
	 <b>COPY</b>							

8. INSUR.	PROPERTY INSURED	NAME OF INSURER	AMT. INSURANCE	TOTAL VALUE
	YES <input type="checkbox"/> NO <input type="checkbox"/>			54.40

9. DISPO	NO.	DATE	DISPOSITION	CLOSED EX C UNFOUNDED INACTIVE PENDING

10. WITNESS	NO.	NAME (LAST, FIRST, MIDDLE) - ADDRESS	AGE	DOB
	WT-1			

CODE: ASSAULT (A) HOMICIDE (H) SUICIDE (S) ATTEMPTED SUICIDE (AS)		NATURAL DEATH (ND) ACCIDENT VICTIM (AV) OTHER (O)								
V I C T I M	11	S-1	CODE	NAME (LAST, FIRST, MIDDLE)	ADDRESS	SEX	AGE	DOB		
	NATURE OF INJURIES			HOSPITAL AND/OR PHYSICIAN						
	DATE OF DEATH			CORONER OR M. E.			AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST YES <input type="checkbox"/> NO <input type="checkbox"/>	
	S-2			CODE	NAME (LAST, FIRST, MIDDLE)	ADDRESS	SEX	AGE	DOB	
	NATURE OF INJURIES			HOSPITAL AND/OR PHYSICIAN						
	DATE OF DEATH			CORONER OR M. E.			AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST YES <input type="checkbox"/> NO <input type="checkbox"/>	
	S-3			CODE	NAME (LAST, FIRST, MIDDLE)	ADDRESS	SEX	AGE	DOB	
	NATURE OF INJURIES			HOSPITAL AND/OR PHYSICIAN						
	DATE OF DEATH			CORONER OR M. E.			AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST YES <input type="checkbox"/> NO <input type="checkbox"/>	
	DATE OF DEATH			CORONER OR M. E.			AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST YES <input type="checkbox"/> NO <input type="checkbox"/>	
T I T L E	12	CODE: UNK. SUBJ. (U) PERPETRATOR (P) DEFENDANT (D) WANTED-WARRANT (W) CRIM. SUM. (S) ACCOMPLICE (A) OTHER (O)								
	T-1	CODE	NAME (LAST, FIRST, MIDDLE)	ADDRESS	ALIAS	SEX	AGE	DOB		
	T-2	17 South Ave Ithaca NY				273-9597				
	T-3									
W A N T E D	13	TITLE NO. RACE HT. WT. HAIR EYES CRIME					SECTION		LAW	
	JUDGE - NAME, ADDRESS AND TITLE					COUNTY	DATE ISSUED		EXTRADITE YES <input type="checkbox"/> NO <input type="checkbox"/>	
	TITLE NO. RACE HT. WT. HAIR EYES CRIME					SECTION		LAW		
	JUDGE - NAME, ADDRESS AND TITLE					COUNTY	DATE ISSUED		EXTRADITE YES <input type="checkbox"/> NO <input type="checkbox"/>	
I N Q U I R Y	14	NYSIS		NO.	FILE	DATE	STATION	NO. DATE		
	<input type="checkbox"/> YES <input type="checkbox"/> NO									
	NCIC									
	<input type="checkbox"/> YES <input type="checkbox"/> NO									
I D	16	PHOTOS TAKEN YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>				DUSTED FOR LATENT PRINTS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>				
	17	OTHER AGENCY NOTIFIED				RESPONDED YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>				
O A	18	IF INCIDENT OCCURRED WITHIN LICENSED S.L.A. PREMISES				OWNER'S NAME				
	19	BUSINESS NAME				LIC. NO.				
N A R R A T I V E	19	<p>at approx 1400 hrs this date, while doing follow up work on CR # 83-421 (Burglary 312-F Fernow) this officer spoke with C-1. C-1 stated that upon his arrival to his office at approx noon this date he noticed the books on his shelf to be out of their normal order. Upon checking the shelf P-1 &amp; P-2 were found to be missing. C-1 stated that he is positive the theft occurred sometime late Friday 3/4/83 to early Saturday 3/5/83 as he used P-1 on 3/4/83.</p> <p>All indications are that T-1 entered the office by climbing over the partition from the open hall way.</p>								
	20	1. Signature list from Triangle book shop (copy)								
E N C	SIGNATURE AND RANK				SHIFT	SHIELD NO.	APPROVED			
	Barbara Proune				21	22	3/5/83			

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 3CASE NO. 83-422  
OTHER AGENCY 83-0034511445 hrs 3/5/83

This officer spoke with Terry Hoover at Triangle Books to advise him of the stolen books. Mr. Hoover stated that both P-1 and P-2 were sold to him sometime before noon 3/5/83. Upon inspection of the books, the name Richard Baker was partially scratched out, establishing these books as P-1 & P-2. Mr. Hoover further stated that the subject who sold the books was tall, approx 5'11" - 6 ft med. build with sandy colored hair. Mr. Hoover stated he felt he would recognize T-1 should he see him again. Mr. Hoover also provided this officer with a copy of the sign-in log used when books are sold to Triangle. The signature was not legible but the initials were obviously K. V. In the margin of the page was the ID # 222416. Mr. Hoover stated that T-1 had produced a college ID, but could not remember which school.

1530 hrs 3/5/83

This officer checked the computer printout under the letter V to attempt to match the ID number. The result was the above listed information on T-1.

**MASTER FILE**  
**DO NOT REMOVE**

Barbara Bourne  
Investigating OfficerR. R. J. Smith  
SupervisorDate of Investigation 3/5/83Date of Approval 3/5/83

End #1

CR # 83-422

22- x Matt Heyland  
25- x Tony Samerod  
19- x Beth Linton  
2- x John Higgins  
10.50 x Beynon Boddy  
2- Mr  
13- x Kirk Horn  
26- x John B. Gally  
12- x Matthew Sweeney  
20- x Kirk Horn  
0902 19- x Andrew L. Camm  
22- x Paul Harriott  
14- x N Kazah  
4.50 Gerald Meyer  
2 00 x Cefin Mann  
1 50 x 2m Sal  
224/6 28 00 x Thom Vanzind  
08124 43- x Janith S Harade  
19- x Valeri Vergara

**MASTER FILE**  
**DO NOT REMOVE**

MARILYN J. TRIVENTI  
Bergenfield, NJ  
Camping, Student Government

Pre-Vet

GLENN M. TROOST  
Staten Island, NY  
Animals, Dancing

Pre-Law

GILBERT T.Y. TSO  
Foster City, CA  
Debating, Math

Engineering, Economics

PHILIP W. TSUNG  
Norwood, NJ  
Baseball, Chess

Chemistry

PENNY J. TUCKER  
Skaneateles, NY  
Animals, Soccer

Pre-Vet

GLENN E. TUCKMAN  
Norwalk, CT  
Music, Swimming

Hotel Administration

DEBORAH A. TUOHEY  
N. Syracuse, NY  
Animals, Horseback Riding

Science

KEITH P. TURKEL  
Scarsdale, NY  
Basketball, Soccer

Pre-Law

STEPHEN R. TURNBULL  
Palo Alto, CA  
Camping, Publications

Engineering

JOHN J. TURNER  
Port Washington, NY  
Animals, Running

Biological Sciences

SUSAN H. TYLER  
La Jolla, CA  
Hiking, Student Government

Engineering

STEVEN W. TYNDALL  
Boca Raton, FL  
Music, People

Science

RANDI S. URBAN  
N. Woodmere, NY  
People, Publications

Business

OWEN URBAY  
West New York, NJ  
Basketball, Scuba Diving

Pre-Med

DAWN C. VADNEY  
Avon, NY  
Photography, Publications

Consumer Economics

JEFFREY L. VALLET  
Endwell, NY  
Golf, Science

Pre-Vet

DAVID M. VANBUREN  
Atlanta, GA  
Football, Travel

Hotel

GREGORY D. VANDUYNE  
Savannah, NY  
Basketball, Chess

Pre-Med

KEVIN G. VANGINDEREN  
Carmel, NY  
Animals, Baseball

Pre-Med

GERRIT VAN LOON  
Cloverack, NY  
Skiing, Frisbee

Pre-Med

CATHERINE VARDAKIS  
Elmira, NY  
Dancing, Languages

Business

SUSHEELA D. VASAN  
New Canaan, CT  
Dancing, Gymnastics

Engineering

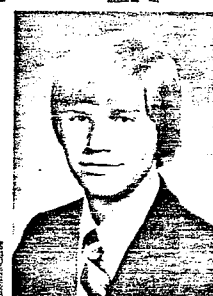
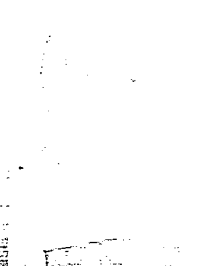
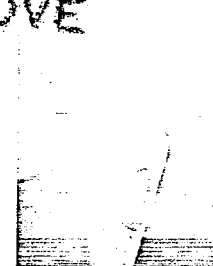
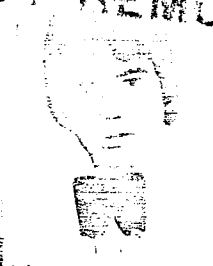
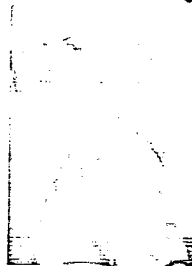
CAROLEEN L. VAUGHAN  
Elmira, NY  
Dancing, Drama

Humanities

JOHN A. VAUGHAN  
Edmond, OK  
Camping, Football

Engineering

DO NOT REMOVE





CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 61640 hrs 3/5/83

This officer returned to Triangle Books and again spoke with Mr. Terry Hoover. This officer showed Mr. Hoover the enclosed 1979 picture of T-1. Mr. Hoover stated that although the hair is not the same, the facial features match. Mr. Hoover further stated he is certain that T-1 is the same subject who sold P-1 & P-2 to him earlier this date.

 CASE NO. 83-422  
 OTHER AGENCY 83-023451
**MASTER FILE**  
**DO NOT REMOVE**
Barbara J. Bourne  
 Investigating Officer
PODate of Investigation 3/5/83
St. R. J. Lewis  
 Supervisor
Date of Approval 3/6/83

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 70730 hrs. 3/6/83

A check was made of the location file for additional thefts from Fernow Hall. The following cases were found:

83-303, 83-306, 83-311, 83-333, 83-339, and 83-368.

Prior to 83-303 there were no reported thefts from 1981-1983.

83-306, investigated by PO Wittner includes a receipt for the sale of four books to the Campus Store. This receipt shows an ID # of 22416. (Note: T-1's ID number is 222416). PO Wittner indicated in his narrative that the clerk had not written down the full six digits of the subject's ID number. Further, the receipt shows an illegible signature of a subject with the initials K.V. A comparison was made of T-1's signature with that from the Campus Store receipt. While not identical the similarities, particularly in the formation of the K and the V, would indicated that both were made by the same individual.

The books recovered at the Campus Store in conjunction with 83-306 resulted in cases 83-333, 83-339 and 83-368, all previously undetected thefts.

The theft reported in 83-303 occurred within the same time frame as 83-306 and its related cases.

The theft in 83-311 occurred on or about 2/3/83 from room 306 Fernow; the site of several of the other related thefts.

It should be noted that all of the thefts from Fernow during this period have been from normally unsecured rooms and offices easily accessible other than through their doors. Note: the 312 office complex can be easily accessed by climbing over the partitions between offices. Three of the thefts

*Barbara Bourne*  
Investigating Officer

*R. J. Sims*  
Supervisor

PO

Date of Investigation 3/6/83Date of Approval 3/6/83

CASE NO. 83-422  
OTHER AGENCY 83-003451

**MASTER FILE**  
**DO NOT REMOVE**

CASE NO. 83-422  
OTHER AGENCY 83-003451

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 8

have occurred in this complex (83-303, 83-421, and 83-422).

It is the opinion of this officer that all eight cases are related due to similarities of time span, type of items taken and general method of the thefts.

1130 hrs. 3/6/83

PO Wittner contacted via telephone. PO Wittner stated that at the time of the incidents in 83-306 the clerk at the Campus Store stated he could positively identify the subject who sold him the books should he see him again.

**MASTER FILE  
DO NOT REMOVE**

Barbara J. Bourne PO Date of Investigation 3/6/83  
Investigating Officer  
Sgt. R. J. Sims Supervisor Date of Approval 3/6/83  
EXHIBIT F, PAGE 12



Voluntary Statement

STATE OF NEW YORK

COUNTY OF TompkinsCITY, TOWN, or VILLAGE OF IthacaDate 3/7/83 Time 9:30 AM Place TRIANGLE BOOK SHOPI, TERRY HOOVER, am 40 years of age, born on JAN 6, 43,my address is 38 SALG DR TRUMANSBURG, NY,my occupation is ASS'T MGR, and degree of education is BSI have been duly warned by BJ Bourne, who has identified himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

On Sat, March 5<sup>TH</sup>, a ~~man~~ man came to Triangle Book Shop to sell books. The books were w/e, "Life of Birds", "Schoel", "Geometry", and Davis "Quant Models for Mgt." I bought the books and paid \$28<sup>00</sup> for them. I also ask for the sellers ID and made a note of the ID number beside his signature on one buy-back sheet. He was a moderately tall man with dark hair. Later, after the book were reported stolen, I was shown a picture by Cornell Safety from the freshman registry of the suspect. I was sure that it was the same man from whom I bought the above books.

**MASTER FILE**  
**DO NOT REMOVE**

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Affirmed under penalty of perjury  
this 7<sup>TH</sup> day of MARCH, 19 83

Signed by Terry Hoover

Page 1 of 1 page(s)

Title: \_\_\_\_\_

Witness: Barbara J Bourne

Witness: \_\_\_\_\_

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 90715 3/8/83

The results of this investigation to this point show that T-1

MASTER FILE  
DO NOT WRITE

RIC

Kevin G. Vanginderen dob 10/23/61 (P)  
603 Winston Ct. Apt. #3  
Ithaca, NY  
Ag & LS '83  
CU ID 222416

is in some way involved with the following cases:

- 83-303 - Burglary from 312-C Fernow  
tape deck and calculator  
on or about 2/10-2/12/83
- 83-306 - Petit larceny from 207 Fernow  
2 text books on or about  
2/11/83
- 83-311 - Petit Larceny from 306 Fernow  
1 text book believed to have been  
taken on 2/2 or 2/3/83.
- 83-333 - Petit Larceny from 306 Fernow  
1 text book unknown date  
recovered in conjunction with 83-306
- 83-339 - Petit Larceny from 306 Fernow  
2 text books unknown date recovered  
in conjunction with 83-306
- 83-368 - Petit Larceny from 119 Fernow  
1 text book on or about 2/10/83  
recovered in conjunction with 83-306

Barbara J. Bourne  
Investigating Officer

Barton R. Ingersoll, Jr.  
Supervisor

Date of Investigation 3/8/83

Date of Approval 3/8/83

CASE NO. 83-422  
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CASE NO. 83-422  
OTHER AGENCY \_\_\_\_\_

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 10

- 83-421 - Burglary room 312-F Fernow  
1 stereo tape player/recorder on or  
about 3/5/83.
- 83-422 - Burglary room 312-C Fernow  
2 text books on or about  
3/5/83
- 83-426 - Burglary room 312-B Fernow  
4 text books on or about 3/5/83
- 83-446 - Pet. Larceny - room 308-Fernow  
1 textbook sometime during  
last 2 weeks. /jch

MASTER FILE  
DO NOT REMOVE

Barbara J. Cause  
Investigating Officer

PO

Date of Investigation 3/8/83

Barton R. Ingersoll, St  
Supervisor

Date of Approval 3/8/83

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 110730 3/8/83

This officer and PO Wittner responded to 17 South Ave and spoke with the House President. The House President stated that T-1 resided at 603 Winston Court.

0800

This officer and PO Wittner responded to the Winston Court Apt. Office at 103 Salem Dr. Mr. Lucente advised us that T-1 resided in Apt. 3 of bldg. 603.

MASTER FILE  
DO NOT REMOVE0820

This officer and PO Wittner arrived at 603 Winston Ct. Apt. 3 to speak with T-1.

0825

T-1 was advised of his rights by PO Wittner and agreed to come to Barton Hall for further questioning.

0835

T-1 was interviewed by PO Wittner (refer to page 15) in the presence of this officer.

0850

T-1 orally admitted to several thefts of books, a calculator, and two tape decks from both Fernow and Bradfield. T-1 was again given his rights by this officer.

Barbara Bourne PO  
Barton R. Ingersoll Lt.  
Investigating Officer

Supervisor

Date of Investigation 3/8/83Date of Approval 3/8/83

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## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary

PAGE 12

**MASTER FILE**  
**DO NOT REMOVE**

0900

T-1 signed a Waiver of Rights form.

T-1 then prepared a written statement confessing to the crimes.

0930

District Attorney Bucko notified at this time.

0950

This officer, PO Wittner and T-1 returned to his residence to pick up items T-1 stated he had obtained in other burglaries and had kept. T-1 signed a consent to Search Form.

Found in T-1's bed room were the following

- 1) TI 55 Calculator serial # 3896699 #83-240
- 2) Sanyo Tape recorder (cassette) #83-241
- 3) JVC Stereo Cassette player/recorder #83-236  
serial # 17631022

1000

Upon return to Barton Hall the above listed items were tagged as evidence (tag #83-236, 83-240, 83-241) and a receipt given to T-1.

1020

T-1 was fingerprinted and photographed by PO Wittner.

1035

T-1 interviewed by Lt. Boice, refer to encl. #6 for details

Barbara J. Bourn

Investigating Officer

PO

Date of Investigation 3/8/83

Barton R. Anderson, Lt.

Supervisor

Date of Approval 3/8/83

EXHIBIT F, PAGE 17

CASE NO. 83-422  
OTHER AGENCY \_\_\_\_\_

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 131145  
V.P. Gurowitz advised of this case by Capt. Murphy.  
1200

T-1 was transported to City Court for arraignment before Judge Ward. T-1 was released in his own recognizance to appear at a Preliminary Hearing in City Court on March 18, 1983.

T-1 remained with Ithaca Police Dept. Detectives for further processing.

MASTER FILE  
DO NOT REMOVE1420

This officer and PO Wittner responded to 312-C Fernow Hall and spoke with C-1.

C-1 stated that he had at no time authorized T-1 to remove any items from his office.

C-1 was shown the items obtained at T-1's residence for possible identification. C-1 identified the calculator and the Sanyo tape deck as those that were taken from his office on or about 2/10/83. (Refer CR 83-303)

Enclosed is a signed statement to this effect from T-1.

1500

During the course of the interviews with T-1, T-1 repeatedly confessed to taking text books from room 411 Bradford Hall during the course of the past year.

Barbara J. Baum  
Investigating Officer

PO

Date of Investigation 3/8/83Barton H. Ingersoll Lt.  
SupervisorDate of Approval 3/8/83



CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE

Burglary

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OTHER AGENCY

CASE NO. 83-422

This confession establishes T-1 as the perpetrator of the following cases.

82-1670 - Petit Larceny from 411 Bradfield  
3 text books unknown date

82-1685 - Petit Larceny 411 Bradfield  
1 textbook on or about  
10/28 - 11/15/82.

82-1686 - Petit Larceny 411 Bradfield  
3 text books on or about  
11/11 - 11/18/82

82-856 - Burglary 411 Bradfield  
4 text books, 1 hand lens  
1 dissecting kit sometime  
during May 1982.

82-868 - Petit Larceny 411 Bradfield  
7 text books, unknown date  
reported 6/4/82.

1530

Dean Drinkwater notified of this case by  
Lt. Boice

10-1-83  
Recovery  
Value

Barbara J. Bourn PO

Investigating Officer

Date of Investigation

3/8/83

Barton R. Ingersoll Sr.

Supervisor

Date of Approval

3/8/83

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE BurglaryPAGE 15CASE NO. 83-422  
OTHER AGENCY \_\_\_\_\_

0835 hrs, 3-8-83, the defendant was interviewed by this officer about the books he sold over the past several weeks. He stated that he saw a list of books for sale in the laundry with a telephone number on it several weeks ago and that he called the number and arranged a meeting at Univ library with a hispanic male, bought books then resold them. He then said that he remembered the number on Friday and called again, met with the subject and bought the books in CR#83-422, took them to triangle and sold them on Saturday.

This officer then asked the defendant how it was possible that he bought the books on Friday when C-1 stated that they were taken sometime late Friday night or Saturday morning. The defendant then admitted that he took the books from Fernow hall that he did not buy them. He said "I went into the rooms and took the books, stereo, calculator and tape deck. I am a poor student and sold the books to get money." He was then asked about other thefts from Fernow hall and he stated that he took the books. He was then asked about the book thefts from Bradfield Hall for the period from 6-2-82 to 11-15-82. He said that he took the books. When asked how he gained access to the building he said that he had worked in the Lab (room 411) and was given a key to the building and the room, that when he quit no one asked him for the keys back. He was then asked how he got into Fernow Hall. He said that by using his key to the outside door to Bradfield and going into the basement that there is a tunnel that goes to Fernow and that the only door there has a crash bar on it. Once inside Fernow he went to the rooms and took the books.

Wayne L. Wiltrous

Investigating Officer

Barton R. Ingersoll

Supervisor

MASTER FILE

Date of Investigation 3-8-83

DO NOT REMOVE

Date of Approval

1/76-5M

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 16

CASE NO. 83-422  
OTHER AGENCY \_\_\_\_\_

The two Yale keys numbered BJ-1 and 6FX were taken as evidence and assigned evidence tag 83-237. When asked why he took the books he stated again that he was just a poor student and that he took them to have money to live on and he took the stereo, tape deck and calculator for his own use. He wanted to know what took us so long to catch him, that he expected to be caught a year ago, and since he did not he continued by taking things from Fernow Hall.

**MASTER FILE**  
**DO NOT REMOVE**

Wayne L. Welter  
Investigating Officer

Barton N. Ingerson  
Supervisor

Date of Investigation 3-8-83

Date of Approval 3-8-83

CASE NO. 83-422  
OTHER AGENCY

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 17

The following enclosures are continued from page #1.

- #5. Voluntary statement from C-1
- #6. Interview of Defendant by Lt. Boice
- #7. Advice of Rights form
- #8. consent to search form
- #9. Oral Admissions form
10. written Admissions forms.
11. Accusatory Instrument.
12. Affidavit of service form

**MASTER FILE**  
**DO NOT REMOVE**

Closed refer to Ct.  
TOTAL CASE sent to I.P.D.  
4/8/83 1700hrs.  
(B)

Barbara J. Baum PD  
Investigating Officer  
Barton R. Drysdale Jr.  
Supervisor

Date of Investigation 3/8/83

Date of Approval 3/8/83

OFFENSE Burglary PAGE 18

DO NOT WRITE IN THESE SPACES

Supervisor

ENC #3

STATE OF NEW YORK

COUNTY OF TompkinsCITY, TOWN, or VILLAGE OF IthacaDate 3/7/83 Time 7:30 AM Place TRIANGLE BOOK SHOPI, TERRY HOOVER, am 40 years of age, born on JAN 6, 43,my address is 38 SILEX DR TRAFALGAR, NY,my occupation is ASS'T MGR, and degree of education is BS.I have been duly warned by BS Bourne, who has identified himself as Police Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

On Sat March 5<sup>th</sup>, a ~~man~~ came to Triangle Book Shop to sell books. The books were w/ 1 copy of "Satanic Ruminations" and Davis "Quant Models of Vorticity". I bought the books and paid \$8.33 for them. I also asked for the seller's ID and he wrote the ID number on the back of the books and his signature on one of the books about. He was a somewhat tall man with dark hair. Later, after the book was inspected, I was given a picture by Cornell Siftly from the FBI man requesting of the suspect. I was sure that it was the same man from whom I bought the above books.

**MAILED FILE**  
**DO NOT REMOVE**

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Affirmed under penalty of perjury  
this 7<sup>th</sup> day of MARCH, 19 83

Signed by Terry Hoover

Page 1 of 1 page(s)

Title: \_\_\_\_\_

Witness: Barbara J Bourne

Witness: \_\_\_\_\_



DO NOT REMOVE FILE

STATE OF NEW YORK  
COUNTY OF TOMPKINS  
CITY, TOWN OF VILLAGE OF ITHACA  
Date 3/8/83 Time 9:10 AM Place Barton Hall  
I, Kevin G. Vanginderen, am 21 years of age, born on 10/23/61,  
my address is 603-3 Winston Court Apartments,  
my occupation is Student, and degree of education is college senior.  
I have been duly warned by Barbara J. Bourne, who has identified  
himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and  
that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or  
another person, I freely volunteer the following statement to the aforesaid person.

I, Kevin G. Vanginderen, admit to taking a few books, a calculator, and two small  
cassette decks from Fernow Hall. I will return the calculator and tape decks for  
I still possess them. I also admit entering a lab at Bradfield Hall for the  
purpose of taking a few textbooks. All of these textbooks were sold to the  
Campus Store and Triangle Book Store for cash. This cash allowed me to survive  
in poor times for I am an extremely poor college student deeply in debt with  
little other options.

OFFICER WITTNER: You stated that you took books from Bradfield Hall. How did you  
gain entrance to Bradfield and the labs?

VANGINDEREN: I had a key for the building and lab given to me when I had a lab  
job there two years ago and nobody asked for its return.

WITTNER: The only things you took out of Bradfield were the books?

VANGINDEREN: From that one lab.

WITTNER: You didn't take anything else?

VANGINDEREN: Not in Bradfield.

WITTNER: How did you gain entrance into Fernow Hall?

VANGINDEREN: A tunnel leading from the basement of Bradfield Hall to Fernow  
which is unlocked. I gained entrance through it.

WITTNER: The rooms you took the books from in Fernow -- were the rooms locked?

VANGINDEREN: No. The rooms I went into on the main corridor were unlocked. The  
ones at the ends of the corridor had spaces above the doors, which I

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct. I have also been told and I  
understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law  
of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Title: \_\_\_\_\_

Affirmed under penalty of perjury  
this 8th day of March, 1983

Signed by Kevin Vanginderen

Page 1 of 2 page(s)

Witness: H. W. G. Bourne

Witness: \_\_\_\_\_

STATE OF NEW YORK

COUNTY OF TOMPKINS

CITY, TOWN, OR VILLAGE OF ITHACA

Date 3/8/83 Time 9:10 AM Place BostonI, Kevin G. Vanginderen, am 21 years of age, born on 10/23/61my address is 603-3 Winston Court Apartmentsmy occupation is Student, and degree of education is college seniorI have been duly warned by Barbara J. Bourne, who has identified himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

jumped.

WITTNER: All the books you took last year and this year were sold to Campus Store and Triangle Book Store.

VANGINDEREN: Yes.

WITTNER: Not to a private individuals

VANGINDEREN: No.

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Title: \_\_\_\_\_

Affirmed under penalty of perjury  
this 8th day of March, 19 83

Signed by Kevin Vanginderen

Page 2 of 2 page(s)

Witness: H. W. B. Bourne

Witness: \_\_\_\_\_

Voluntary Statement

STATE OF NEW YORK

COUNTY OF TompkinsCITY, TOWN, or VILLAGE OF IthacaDate 3-8-83Time 1420Place Fernow HallI, Richard J. Baker, am 29 years of age, born on 12/4/53.my address is 134 Judd Falls Rd., Ithaca, NY.my occupation is Graduate Student, and degree of education is grad. student.I have been duly warned by Wayne L. Wittner, who has identified himself as Cornell Patrol Officer.

~~that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.~~

RJB On 2/10/83, I was in my office working. RJB On that day, I used my TI-55 calculator and a Sanyo cassette tape deck I had borrowed. When I returned to my office on 2/13/83, both were missing. I reported the theft to Cornell Public Safety on 2/14/83. On 2/24/83, I again worked in my office. On 3/25/83, I returned to my office and found two books: Life of Birds, Welty and Biometry, Sokal & Rohlf missing. I immediately reported these thefts to Public Safety. RJB

RJB At no time during this period had I given permission to anyone to borrow any of this material. RJB

RJB At ~2:20 pm, Officers Bousne & Wittner brought in my tape player and calculator. I positively identified these as mine. RJB

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Title: \_\_\_\_\_

Affirmed under penalty of perjury  
this 8 day of March, 19 83

Signed by Richard J. BakerPage 1 of 1 page(s)Witness: Wayne L. WittnerWitness: Barbara Bousne

Voluntary Statement**MASTER FILE  
DO NOT REMOVE**

STATE OF NEW YORK

COUNTY OF TompkinsCITY, TOWN, or VILLAGE OF IthacaDate 3-8-83 Time 1420 Place Fernow Hall

I, Richard J. Baker, am 29 years of age, born on 12/4/53,  
 my address is 134 Judd Falls Rd., Ithaca, NY.  
 my occupation is Graduate Student, and degree of education is grad. student.  
 I have been duly warned by Wayne H. Wittner, who has identified  
 himself as Cornell Patrol Officer.

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and  
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Life of Birds, Welty and Bionetry, Sokoloff missing. I  
 immediately reported these thefts to Public Safety. RJB  
RJB At no time during this period had I given permission  
 to anyone to borrow any of this material. RJB  
RJB At ~2:20pm, Officers Bourne & Wittner brought in my  
 tape player and calculator. I positively identified these  
 as mine. RJB

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I  
 understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law  
 of the State of New York.

Subscribed and sworn before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Title: \_\_\_\_\_

Affirmed under penalty of perjury  
 this 8 day of March, 1983

Signed by Richard J. BakerPage 1 of 1 page(s)Witness: Wayne H. WittnerWitness: Barbara Bourne

Interview of Kevin G. Vanginderen by Lt. William Boice, Public Safety, recorded by Joelle Munson, Public Safety, took place in the Major Investigations Office at 1035 hours, March 8, 1983. Lt. Boice began by having Vanginderen read his previous brief statement, which Vanginderen approved as correct and signed. Lt. Boice then began the following line of questioning: (B - Boice; V-Vanginderen)

B - Please state the facts in your own words.

V - About two years ago, I had a lab job at Bradfield Hall, which gave me a key to the building and Room 411. I noticed while I was working there that there were a lot of students that had books from courses they were no longer taking. I took some of these books and sold them to Campus Store and Triangle Book Store for \$10. I am only getting poorer as a college student. I have a job also but when I ran out of cash, I would go to the lab and take a few books. I would only get \$15 or \$20 for them at a time. I went to Bradfield a couple of times the last semester and a couple of times this year, only when I needed the cash. Last semester, they changed the lock to one of the labs. I noticed the tunnel to Fernow this semester and the door was unlocked as well as the rooms. It was the same as in Bradfield, with lots of books that people didn't need. I took a few of them. In one office, there was a calculator on a desk and cassette recorder; and in another room, there was a cassette deck. They were the only things besides books that I took.

B - What were the dates of your employment at Bradfield Hall?

V - Approximately October to December 1981 -- the first semester of my junior year.

B - You were employed on the fourth floor?

V - Yes, 411, I think.

B - When approximately did you find yourself in a position where you started stealing?

V - The next semester. I was amazed that no one asked for the key and I had noticed the books.

B - You did not commit any thefts in 1981?

V - No, only second semester.

B - Approximately when did you start?

V - It doesn't stick out.

B - I have one case here from June 1982 (CR82-856).

V - All the books may not have been discovered for a long time. I was not here over the summer. All the books were scientific.

B - This case occurred in May. Do you remember names and titles -- Principles of Plant Breeding and Plant Pathology?

V - They were all plant or scientific books -- all from labs or science offices.

B - Case 82-868 -- 8 books in Bradfield Hall, Room 411?

V - Yes

**MASTER FILE**  
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INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983

Page 2

- B - List of books -- Breeding Field Crops, Soils and Soil Fertility, Mycogenetics, Statistics, Plant Pathology, Biochemistry, Toxins in Plant Disease, and Plant Breeding II.
- V - Sounds it.
- B - Case 82-1670 -- 411 Bradfield Hall -- three textbooks -- Property of Soil, Plant Structure and Function, and Plant Breeding -- November 1982?
- V - Sounds it.
- B - Case 82-1685 -- 411 Bradfield Hall -- November 1982 -- textbook -- Plant Mineral Nutrition?
- V - If they're from 411 ... don't know exact titles.
- B - Case 82-1682 -- three textbooks?
- V - (Nodded yes)
- B - Case 83-303 -- occurred February 10-12 -- Unlawful entry into Room 312C Fernow Hall in which a calculator, TI-55, and a Sanyo tape deck recorder were taken. Were you responsible for these?
- V - Yes, they have them. *(officers)*
- B - These are the two items that were recovered in your room?
- V - (Nodded yes) In the next room, there was another cassette deck.
- B - Case 83-306 -- 207 Fernow Hall -- occurred February 11, 1983 -- two textbooks?
- V - Yes
- B - Case 83-311 -- February 2 and 3 -- Room 306 Fernow -- Textbook -- Aquatic Chemistry?
- V - Not offhand; what room?
- B - 306
- V - I imagine.
- B - Case 83-333 - 306 Fernow -- Approximately middle of February?
- V - If the room is the same, they're probably just different discoveries of the same theft.
- B - One textbook -- Biological Science?
- V - (Nodded yes)
- B - Case 83-421 -- March 3-5 -- 312F Fernow -- JCV stereo cassette player recorder taken on a Burglary where the subject climbed over a partition. Are you responsible for this?
- V - Yes. It was the last theft at 2 AM Saturday.
- B - Case 83-422 - 312C Fernow -- March 4 and 5 -- Burglary -- theft of two textbooks -- Biometry and The Life of Birds. Do you remember these two?
- V - Sounds familiar.

**MASTER FILE**  
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MASTER FILE

DO NOT REMOVE

INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983 Page 3

B - They were the two you sold to Triangle Book Store.

V - (Nodded yes)

B - Case 83-426 -- 312B Fernow Hall -- March 5 -- Burglary -- four textbooks stolen -- Resource Economics; Applied Theory of Price; The Way of Chung Tzu; Leisure -- The Basis of Culture. Are you familiar with this case?

V - Sounds familiar.

B - Where are these books now?

V - I have two paperbacks still. The others were sold to Campus Store and Triangle Book Store, I believe.

B - Have you stolen from any other building besides Bradfield and Fernow?

V - I only stole from buildings that I had access to. I'm not a nervy person. I only stole at night with a key. I didn't break down doors. The rooms were obviously open and vulnerable.

B - Do you know anything about the theft of a dollar bill changer at the Multi-Cat?

V - No

B - Do you know anything about tampering with an element analyzer on the 8th floor of Bradfield Hall?

V - Know nothing about it.

B - How about miscellaneous things like the theft of soda pop on the 8th floor of Bradfield Hall?

V - I was never on the 8th floor.

B - Your residence is 603 Winston Court, Apartment 3. No problems up there?

V - (Shook head no) I only took books that I figured people didn't need.

B - Can you explain to me why?

V - I currently owe the university approximately \$1,000, a fraternity \$700, and living expenses are high. I foresee myself graduating in debt. The job at Lynah's not enough -- I could go hungry. I have \$5 in my pocket now from the last books I sold. My bank account is empty. I feel remorse and yet I would not have eaten otherwise. A strange remorse -- I would not be at college. Tuition is up -- financial aid is down. I'm a graduating senior -- though not in an honest fashion.

B - Are you involved in any other activities?

V - No

B - Is your roommate involved?

V - No. Obviously, I took things that were there for the taking. I didn't break in. My friends are not like that.

INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983

Page 4

B - How many times do you think you burglarized offices?

V - Bradfield -- three or four times -- maybe a little more. Fernow -- three times.

B - Each time you entered Bradfield, did you use your key?

V - Yes

B - Was this after you were terminated from your job?

V - I was never officially terminated. I had a lab job with a loose schedule -- I came in when I wanted. I didn't come in any more because I didn't get along with my boss. I figured that they would have taken my key back -- they never asked for it.

B - You entered Fernow via the tunnel:

V - (Nodded yes) The unlocked door.

B - You entered offices by climbing over the doors?

V - No, open doors. I only climbed over two doors.

B - Which cases were those?

V - The tape decks and the calculator.

**MASTER FILE**  
**DO NOT REMOVE**

ENC # 1 83-422

## INTERROGATION; ADVICE OF RIGHTS

YOUR RIGHTS**MASTER FILE  
DO NOT REMOVE**

PLACE Boston Hall  
 DATE 3/8/83  
 TIME 0900

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed

Kevin VengasWitness Barbara J. BourneWitness Wayne A. WetherTime 0900

## CONSTITUTIONAL RIGHTS

## CONSENT TO SEARCH

The right of the people to be secure in their papers, houses, persons and effects, against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized. (Fourth Amendment to the Constitution of the United States.)

I, Kevin G. Vanginderen, having been informed of my Constitutional Rights not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize Wayne Wittner and Barbara Bourne, Officers of the Cornell University Safety Division to conduct a complete search of my residence located at 603 Winston Ct. Apts. Apt #3. These officers are authorized by me to take from my residence any letters, papers, materials or other property which would be considered contraband.

This written permission is being given by me to the above named officers voluntarily and without threats or promises of any kind, to commence at 0950 on 3-8-83 and to conclude by 0952 on 3-8-83.

**MASTER FILE**  
**DO NOT REMOVE**

Kevin G. Vanginderen  
Signature

Wayne Wittner  
Witness

Barbara Bourne  
Witness

MASTER FILE  
DO NOT REMOVE

NOTICE OF INTENT TO USE ADMISSIONS

SCHEDULE A

\*\*\*\*\*

ORAL ADMISSIONS

Date: 3-8-83

Time: 0900 hrs.

Place: Barton Hall

Made To: Wayne L. Wittner

Substance of Admissions: "I went into the rooms and  
Took the books, ~~and~~ stereo, calculator, and tape deck. I am a  
poor student and sold the books to get money"

Date:

Time:

Place:

Made To:

Substance of Admissions:

Date:

Time:

Place:

Made To:

Substance of Admissions:

NOTICE OF INTENT TO USE ADMISSIONS  
SCHEDULE B  
\*\*\*\*\*  
WRITTEN ADMISSIONS  
(Including Preliminary Oral Admissions)

Date: 3/8/83 Time: 0910  
Place: Barton Hall  
Made To: Barbara J. Baurne  
Copy attached as Exhibit encl. #4 CR 83-422

Date: Time:  
Place:  
Made To:  
Copy attached as Exhibit \_\_\_\_\_

**MASTER FILE**  
**DO NOT REMOVE**

Date: Time:  
Place:  
Made To:  
Copy attached as Exhibit \_\_\_\_\_

Date: Time:  
Place:  
Made To:  
Copy attached as Exhibit \_\_\_\_\_



Filed 12/12/2007 Page 33 of 91

THE PEOPLE OF THE STATE OF NEW YORK

- ٧٨ -

ACCUSATORY  
INSTRUMENT

Kevin G. Vanginderen DOB 10/23/61  
Defendant

MENT  
 WAS  
 DO NOT REMOVE

# ACCUSATION

BE IT KNOWN THAT, by this Accusatory Instrument, Barbara Bourne  
as the Complainant herein, accuses Kevin G. Vanginderen  
the above named Defendant, with having committed the offense of  
Burglary in the third Degree  
in violation of the Section 140.20, Subdivision of the Penal Law  
of the State of New York, Violation Misdemeanor a Class D Felony.

## FACTS

On or about the 5th day of March 1983, the said defendant did, in the City of Ithaca, County of Tompkins, New York, did knowingly enter or remain unlawfully in a building, to wit: defendant entered at approx. 2:00AM room 312C Fernow Hall, Tower Road, Cornell University, City of Ithaca, N.Y., to commit the crime of larceny therein by stealing books, with said office space belonging to Richard J. Baker, with all action by defendant without authorization, are contrary to the provisions of the Statute in case made and provided.

The above allegations of fact are made by the Complainant herein:

..... upon direct knowledge

XXXXX. upon information and belief, with the sources of Complainant's information and the grounds for his belief being investigation of case (Cornell) 83-422 and sworn confession of defendant..... WHEREFORE, Complainant prays that a warrant be issued for the arrest of the said defendant.

Barbara Bourne  
Complainant

## NOTICE

(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

Affirmed under penalty of perjury this 8th day of March, 1983.

Sworn to before me this ..... day  
of ....., 19.....

OR

Barbara Bourne  
-----  
*Complainant*

Judge or Justice, Desk Officer or Superior, or  
other authorized person.

EXHIBIT F, PAGE 37

Court

To: Kevin G. Vanginderen

D.O.B. 10/23/61

PLEASE TAKE NOTICE that you have been arrested for the commission of the crime of Burglary in the third degree D

Ithaca, a felony, in the City/Town/Village of Ithaca in Tompkins County, New York. Because this is a felony matter, a Tompkins County Grand Jury will hear evidence relating to the incident which served as the basis for your arrest upon this charge. If the Grand Jury finds that there is sufficient evidence, an indictment may be returned against you.

Pursuant to Section 190.50 of the Criminal Procedure Law of the State of New York, you have the right to appear before the Tompkins County Grand Jury considering your case and give testimony in your own behalf under a waiver of immunity.

If you wish to so give evidence on your own behalf before the Grand Jury, please serve upon me a written notice pursuant to Section 190.50 stating your desire to so give evidence. That notice should be served upon me immediately (if you wish to testify) as a Grand Jury may consider your case at any time without further notice, regardless of the action taken by the Court in which you now appear. That notice must contain an address to which you want me to send notice of a time for you to appear as a witness before the Grand Jury (if there is more than one such address, please provide all such addresses on your written notice). Thereafter, I will notify you relative to a time for your appearance.

JOSEPH JOCH *Benjamin Bucko*  
Tompkins County District Attorney  
Tompkins County Court House  
Ithaca, New York 14850  
(607) 273-2080

**MAILED  
DO NOT REMOVE**

### ADMISSION OF SERVICE

I acknowledge that I received a copy of this notice from Barbara Bourne on the 8th day of March, 1983.

*Kevin Vanginderen*

### AFFIDAVIT OF SERVICE

STATE OF NEW YORK :  
COUNTY OF TOMPKINS: SS.

Barbara Bourne, being duly sworn, deposes and says that on the 8th day of March, 1983, I served a copy of the notice set forth above upon Kevin G. Vanginderen, the

defendant charged with felony set forth herein, at the time of his arraignment before Honorable

XXXXXX of the XXXXXXXX  
XXXXXX Court

Sworn to before me this 8th day of March, 1983.

*Barbara Bourne*

19 83

*Barton R. Ingersoll*  
Notary Public

BAKTON R. INGERSOLL  
Notary Public, State of New York  
No. 4703935  
Qualified in Tompkins County  
Term expires March 30, 1984

EXHIBIT F, PAGE 38

## SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 13

CASE NO. 83-422  
OTHER AGENCY Burglary

09/08/83 - Contacted ADA Mulvey regarding the return of evidence in the Vanginderen case. Per ADA Mulvey, County Court had previously dismissed the grand jury indictment based on a typographical error, to wit: Vanginderen indicted on Burglary 2nd and Criminal Possession of Stolen Prop. 2nd but DA's office presented it as Burglary 2nd. ADA Mulvey advised that Vanginderen plead guilty in City Court of Criminal Possession of Stolen Property 3rd Degree - Class A Misdemeanor and was given a conditional discharge.

09/08/83 + 09/09/83 - all evidence was returned to respective owners.

H. W. G. Boice

Investigating Officer

Date of Investigation

09/22/83

Date of Approval

Supervisor

EXHIBIT F, PAGE 39

MASTER FILE  
DO NOT REMOVE

To: Kevin G. Vanginderen D.O.B. 10/23/61

PLEASE TAKE NOTICE that you have been arrested for the commission of the crime of Burglary in the third degree D, a felony, in the City of ~~Town of Ithaca~~ Ithaca in Tompkins County, New York. Because this is a felony matter, a Tompkins County Grand Jury will hear evidence relating to the incident which served as the basis for your arrest upon this charge. If the Grand Jury finds that there is sufficient evidence, an indictment may be returned against you.

Pursuant to Section 190.50 of the Criminal Procedure Law of the State of New York, you have the right to appear before the Tompkins County Grand Jury considering your case and give testimony in your own behalf under a waiver of immunity.

If you wish to so give evidence on your own behalf before the Grand Jury, please serve upon me a written notice pursuant to Section 190.50 stating your desire to so give evidence. That notice should be served upon me immediately (if you wish to testify) as a Grand Jury may consider your case at any time without further notice, regardless of the action taken by the Court in which you now appear. That notice must contain an address to which you want me to send notice of a time for you to appear as a witness before the Grand Jury (if there is more than one such address, please provide all such addresses on your written notice). Thereafter, I will notify you relative to a time for your appearance.

~~JOSEPH JOCH~~ Benjamin Bucko  
Tompkins County District Attorney  
Tompkins County Court House  
Ithaca, New York 14850  
(607) 273-2080

## ADMISSION OF SERVICE

I acknowledge that I received a copy of this notice from Barbara Bourne on the 8th day of March, 19 83.

Kevin Vanginderen

## AFFIDAVIT OF SERVICE

STATE OF NEW YORK :  
COUNTY OF TOMPKINS: SS.

Barbara Bourne, being duly sworn, deposes and says that on the 8th day of March, 19 83, I served a copy of the notice set forth above upon Kevin G. Vanginderen, the defendant charged with felony set forth herein, at the time of his arraignment before Honorable ~~Barbara Bourne~~ Barbara Bourne of the ~~Town of Ithaca~~ Ithaca Court.

Sworn to before me this 8th day of March, 19 83.

Barbara Bourne

Barton R. Ingersoll  
Notary Public

BARTON R. INGERSOLL  
Notary Public, State of New York  
No. 4703936  
Qualified in Tompkins County  
Term expires March 30, 19 84

## SUBPOENA

FILE NO. 03-173

## In the Name of the People of the State of New York

TO RICHARD BAXTER, 134 Budd Hills Road  
312 C Avenue 6-3191

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on Tues., May 24, 1983 at 2:30 A.M./P.M. as a witness in an investigation regarding

REVT. VANGINDER,

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983.

*Benjamin Bucko*  
District Attorney of Tompkins County RCM/ok1

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK

COUNTY OF TOMPKINS : ss

## AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 1220 PM on 5.20.83 at FENNELL HALL in the City/Town/Village of Ithaca in the County of TOMPKINS and State of N.Y.

Sworn to before me this 20TH

day of MAY, 1983

Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30 1984

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE  
WITH AFFIDAVIT SERVICE COMPLETED.



**SUBPOENA**

FILE NO. ....

**In the Name of the People of the State of New York**TO LT. W. G. POLK, CLERK

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on May 20, 2008 at 11:52 A.M./P.M. as a witness in an investigation regarding

STEVEN VANGLINDEN

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983

Bryan Bucko  
District Attorney of Tompkins County

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK

COUNTY OF Tompkins ss**AFFIDAVIT OF SERVICE**

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 11:52 A.M./P.M. on May 20, 1983 at Barton Hall in the City/Town/Village of Ithaca in the County of Tompkins and State of New York

Sworn to before me this 20THday of MAY, 1983

Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30, 1984

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE  
WITH AFFIDAVIT SERVICE COMPLETED.



# SUBPOENA

FILE NO. 33-1134

In the Name of the People of the State of New York

TO BARBARA BOURN, CUFF

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on Thursday, May 24, 1983 at 2:50 A.M./P.M. as a witness in an investigation regarding

KEVIN VAN GINDEN

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983

Bryan Buck  
District Attorney of Tompkins County

STATE OF NEW YORK

COUNTY OF TOMPKINS : ss

AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 3 ~~PM~~/P.M. on 5/21/83 at CORNELL PUBLIC SAFETY in the City/Town/Village of ITHACA in the County of TOMPKINS and State of New York

Elbert J. Smith

Sworn to before me this

day of , 19

Notary Public

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

**SUBPOENA**

FILE NO. ....

**In the Name of the People of the State of New York**TO DAVID R. FISHER, Notary

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on Thursday, May 24, 1983 at 9:30 A.M./P.M. as a witness in an investigation regarding

LOCAL VENTURE

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983.

Benjamin Bucko  
District Attorney of Tompkins County

STATE OF NEW YORK

COUNTY OF TOMPKINS

SS

AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 4:25 A.M./P.M. on 5/20/83 at G-11 BARTON HALL in the (date) (place)  
(City/Town/Village of ITHACA in the County of TOMPKINS and State of NEW YORK

Prof. J. Traub LT #11

Sworn to before me this 20thday of MAY, 1983

David R. Fisher  
Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30, 1984

**RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.**

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

**REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.**

Dist. Atty. File # 83-1136  
TOMPKINS COUNTY GRAND JURY  
Originally Convened 4/25/83  
Reconvened \_\_\_\_\_

STATE OF NEW YORK  
COUNTY COURT COUNTY OF TOMPKINS

-----  
THE PEOPLE OF THE STATE OF NEW YORK

vs.

KEVIN VANGINDEREN

GRAND JURY  
MINUTES

Indictment Number \_\_\_\_\_  
-----

Grand Jury Convened by HON. BETTY D. FRIEDLANDER, County Court Judge  
Present at Grand Jury proceedings were witnesses named herein and the  
following persons:

ROBERT C. MULVEY, ESQ.,  
Assistant District Attorney

CAROL DICKINSON,  
Foreman

DOROTHY M. BURDORF,  
Stenographer

Grand Jurors

THE DISTRICT ATTORNEY OF TOMPKINS COUNTY  
Tompkins County Court House Ithaca, New York, 14850 (607) 274-5461

I N D E X

<u>Witness</u>	<u>Page</u>
Instructions	3, 22
Barbara Bourne	6
Wayne Wittner	11
William G. Boice	13
Richard Baker	18

E X H I B I T S

<u>Grand Jury Exhibit No.</u>	<u>Page Marked</u>
1	3
2 Transcript of Interview w/Vanginderen	3
3 Statement	3

Grand Jury Exhibits 1, 2 and 3  
marked for identification.

MR. MULVEY:

Good afternoon. This is  
the case of People versus Kevin  
Vanginderen, O.K., and your charge  
sheets show one count of burglary  
in the third degree. I would like  
you to change that to two counts  
of burglary in the third degree,  
and I will read the law to you  
now.

Section 140.20 of the  
Penal Law defines burglary in  
the third degree as follows:  
A person is guilty of burglary in  
the third degree when he knowingly  
enters or remains unlawfully in a  
building with intent to commit a  
crime therein.

I will read you the defini-  
tion of a building. The defini-  
tion is its ordinary meaning to  
you as far as what a building is,  
but it goes further to say: Where  
a building consists of two or

## Instructions

1 more units separately secured  
2 or occupied, each unit shall be  
3 deemed both a separate building  
4 in itself and a part of the main  
5 building. Now, in this case  
6 there may be testimony about  
7 office space within a building.  
8 I would ask you to consider that  
9 as a separate unit within a build-  
10 ing and, therefore, also a build-  
11 ing under this definition.

12 Now, Enter or Remain

13 Unlawfully is defined as follows:

14 A person enters enters in premises --  
15 unlawfully in or upon premises when  
16 he is not licensed or privileged  
17 to do so. A license or privilege  
18 to enter or remain in a building  
19 which is only partly open to the  
20 public is not a license or privilege  
21 to enter or remain in that part of  
22 the building which is not open to  
23 the public.

24 Now, there may or may not  
25 be testimony about public access

Instructions

1 to a part of this building. So  
2 I would like you to keep that in  
3 mind.

4 Are there any questions on  
5 the law or the definitions?  
6  
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25



Barbara Bourne

1           BARBARA BOURNE, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman  
3 of the Grand Jury, testified as follows:

4           EXAMINATION BY MR. MULVEY:

5           Q     Would you state your name and address  
6 for the record, please?

7           A     Barbara J. Bourne, 1380 Coddington Road,  
8 Brooktondale, New York.

9           Q     Are you employed, Barbara?

10          A     Yes, I am.

11          Q     And where are you employed?

12          A     Cornell University, Department of Public  
13 Safety.

14          Q     And what is your position there?

15          A     Patrol officer.

16          Q     Were you so employed in February and March  
17 of 1983?

18          A     Yes, I was.

19          Q     Did you have occasion to make the acquaintance  
20 of a gentleman by the name of Kevin Vanzinderen?

21          A     Yes, I did.

22          Q     Could you please tell the Grand Jury the  
23 circumstances involved leading up to your  
24 acquaintance with him?

25          A     March 5th, on a Saturday. I received a

1 complaint of a theft from Pernow Hall.  
2 It was on the third floor, and a  
3 gentleman by the name of Paul Sheppard  
4 was the first complaint I got. He had  
5 a JVC stereo taken from his locked office  
6 sometime between Friday night and Saturday  
7 morning. There are other offices in the  
8 area, and the indication from what evidence  
9 was available was that the person had  
10 climbed over the partitions between the  
11 offices. There is a space of about one  
12 and a half feet to two feet. Somebody  
13 could have climbed over. So I left a note  
14 for the other graduate students in that  
15 office to contact me as they came in.  
16 About 2:00 o'clock in the afternoon I spoke  
17 with Richard Baker. He had noticed the  
18 two textbooks were missing about the same  
19 time. It's normal procedure, when we get  
20 textbook thefts, to report it to Triangle  
21 Book Store, and I spoke with the manager,  
22 Mr. Terry Hoover. He stated that he had  
23 the two books that Mr. Baker had reported  
24 stolen, and that someone had sold them back  
25 to him. I went down to Triangle and spoke

1 with him in person. He showed me the list  
2 where they -- when they buy books, the person  
3 that sells them signs it, and they have to  
4 show some form of I.D. He showed me the  
5 name on the page with the I.D. number next  
6 to it, and he gave me a copy, photostat  
7 copy of it. The I.D. number was legible,  
8 but the signature wasn't. The only thing  
9 you could really make out was the first  
10 initial was "K," and the last initial was  
11 "V." What I did then was, I went to our  
12 computer printout of all the students  
13 listed and looked under the last names  
14 beginning with the letter, "V," and I found  
15 Kevin Vanginderen, and the I.D. number  
16 matched exactly. At that point I was made  
17 aware by some other officers who were on  
18 duty -- I don't recall exactly who it was --  
19 that Officer Wittner had investigated a  
20 similar incident that had taken place in  
21 February. I went to our files and pulled  
22 out the cases from that and found there a  
23 signed receipt from the Cornell Campus  
24 Store with a signature not identical, but  
25 the formulation of the "K" and "V" were

1 so similar I was convinced it was the same  
2 individual. The person in the Campus  
3 Store had written the I.D. number in-  
4 correctly. They put down five digits  
5 instead of the usual six, but the five digits  
6 they put down were exactly the same as five  
7 of the six of Mr. Vanginderen's I.D. number.

8 Q O.K., and what did you do then?

9 A We found a copy of the 1979 Cornell Freshman  
10 Register. We only knew Mr. Vanginderen was  
11 a Senior. The only picture we could find  
12 of him was in the 1979 Freshman Register.  
13 I took that book down to the Triangle Book  
14 Store and showed it to Mr. Hoover and asked  
15 him if there was anyone on the page, the two  
16 pages there, he would recognize. He pointed  
17 to Mr. Vanginderen's picture and said, "The  
18 hair is different, but the facial features  
19 are the same, and I'm quite certain it's  
20 the same person."

21 Q Did there come a time when you approached  
22 Mr. Vanginderen about these incidents?

23 A Yes. On Tuesday, the 8th, myself and Officer  
24 Wittner. At that time we had thought that  
25 Mr. Vanginderen lived on -- in one of the

Barbara Bourne

1 fraternities, and we went down to the  
2 fraternity and spoke to the House President.  
3 It was determined he no longer lived there;  
4 he lived in Winston Court Apartments. We  
5 went there and spoke with the manager of  
6 the apartments and found he lived in 603,  
7 Apartment 3. It was about 8:00 o'clock in  
8 the morning, 8:00, 8:30. We knocked on  
9 the door; spoke with Mr. Vanginderen. We  
10 read him his rights, told him what we were  
11 inquiring about and asked him to come to  
12 Barton Hall for some further questioning.

13 Q O.K., and did there come a time when other  
14 members of the department interviewed  
15 Mr. Vanginderen?

16 A Yes. At first it was myself and Officer  
17 Wittner, with Officer Wittner doing the  
18 questioning for the most part. I was  
19 there as a witness to the interview.  
20 When Mr. Vanginderen started confessing,  
21 we read him his rights again, and it just  
22 went on. Eventually Lieutenant Poice  
23 also interviewed Mr. Vanginderen, which  
24 produced a sworn statement from Mr. Vanginderen.

25 Q O.K. Are there any further questions for  
26 Officer Bourne? Thank you.

Wayne Wittner

1            WAYNE WITTNER, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman  
3 of the Grand Jury, testified as follows:

4            EXAMINATION BY MR. MULVEY:

5            Q     Could you state your name and address for  
6 the record, please?

7            A     Wayne Wittner, 15 Meadow Drive, Freeville,  
8 New York.

9            Q     And are you employed, Mr. Wittner?

10          A     Yes. Cornell University Department of  
11 Public Safety as a patrol officer.

12          Q     Were you so employed in March of 1983?

13          A     Yes, sir, I was.

14          Q     Did you have occasion to make the acquaintance  
15 of a Kevin Vanginderen?

16          A     Yes, sir.

17          Q     Could you please briefly tell the Grand Jury  
18 the circumstances involved with your meet-  
19 ing Mr. Vanginderen?

20          A     When I came to work at 7:00 o'clock in the  
21 morning, Officer Bourne informed me that  
22 she had found a possible subject of the  
23 book thefts out of Fernow Hall. At that  
24 time the address that we had for him was  
25 17 South Ave. We went over at that time, and

1 the House President told us that he lived  
2 in Winston Court Apartments. We went there  
3 to his apartment and spoke with the gentle-  
4 man. At that time I read him his Miranda  
5 warnings and asked him about the books.  
6 He told me at that time that he had bought  
7 them from a hispanic in front of the  
8 libraries on the campus. So we then took  
9 him back to Barton Hall. I started question-  
10 ing him at that time about the thefts, and  
11 he broke down and admitted to taking the  
12 books, and I quote, "I went into the rooms  
13 and took the books, stereo, calculator and  
14 tape deck. I am a poor student and sold  
15 the books to get money."

16 Q Did you have any further conversation  
17 with him?

18 A At that time I did not.

19 Q O.K.

20 A Officer Bourns and Lieutenant Boice finished  
21 up with him at that time.

22 Q O.K. So Lieutenant Boice conducted a further  
23 interview.

24 A Yes, sir.

25 Q Are there any questions for Officer Wittner?

26 Thank you, sir.



William G. Boice

1        WILLIAM G. BOICE, called as a witness and  
2        being duly sworn by Carol Dickinson, Foreman of  
3        the Grand Jury, testified as follows:

4        EXAMINATION BY MR. MULVEY:

5        Q        Would you state your name for the record,  
6        please?

7        A        William G. Boice, B-o-i-c-e.

8        Q        Are you employed, sir?

9        A        I am, sir.

10       Q        Where are you employed?

11       A        Cornell Public Safety. I'm a Police Lieutenant  
12       in charge of major investigations.

13       Q        O.K., Lieutenant, were you so employed on  
14       March 8, 1983?

15       A        Yes, sir.

16       Q        O.K. Do you recall conducting an interview  
17       with a man by the name of Kevin Vanginderen  
18       that day?

19       A        Yes, sir.

20       Q        Will you please briefly tell the Grand Jury  
21       the substance of that interview?

22       A        Approximately 9:10 in the morning Officer Bourne  
23       stated that she had -- well, in the course of  
24       the investigation she had interviewed Kevin,  
25       and he admitted to several larcenies and

1 several burglaries in offices in Fernow  
2 and Bradfield Hall.  
3 Q There was a transcript made of that inter-  
4 view?  
5 A Yes, sir.  
6 Q Do you have a copy of that with you?  
7 A Yes, sir.  
8 Q O.K. I'm going to briefly show you Grand  
9 Jury Exhibit 2 and ask you to identify that  
10 for us.  
11 A It's a question and answer interview I  
12 conducted with Kevin at approximately 10:35  
13 on March 8th.  
14 Q O.K. Do you have a copy of that with your  
15 own packet of papers?  
16 A Yes, sir.  
17 Q O.K. I would like you to open that up and  
18 look at it, if you will, Lieutenant. I  
19 direct your attention to the lower portion  
20 of Page 2 of that transcript, specifically  
21 the second to last question on that page.  
22 Would you please tell us or read that question  
23 to the Grand Jury?  
24 A The question I posed to Kevin regarding Case  
25 Number 83-L21 occurring March 2 to March 5,

William G. Boice

1 312F Fernow Hall, involving JVC cassette  
2 stereo player recorder which was taken on  
3 the burglary where the subject climbed over  
4 a partition, and I asked, "Are you responsible  
5 for this?" and Kevin responded, "Yes. That  
6 was the last theft on 2:00 A.M. on Saturday."

7 Q So did you determine what day it was in  
8 March that he committed that burglary?

9 A I don't recall specifically the date that  
10 the burglary occurred. The report came  
11 sometime within the 3rd to the 5th. So  
12 whichever Saturday fell on March 3rd was  
13 it.

14 Q I'm going to direct your attention to  
15 further up on that page, about one-third  
16 of the way down, where it begins,  
17 "Case 83-303." Will you please read that  
18 question to the Grand Jury?

19 A Again, I was questioning. I asked of Kevin  
20 regarding Case 83-303, occurring sometime  
21 between February 10 and February 12, 1983,  
22 regarding unlawful entry into Room 312-C,  
23 Fernow Hall, in which a calculator, a  
24 Texas Instrument, TI 55, and a Sanyo  
25 tape deck recorder were taken. I asked

William G. Boice

1 him specifically, "Were you responsible  
2 for these items?" and he responded,  
3 "Yes, they have them," and indicated that  
4 the officers had them.

5 Q O.K., Lieutenant, did -- I would like you  
6 to look in your packet and tell us if you  
7 have a copy of Grand Jury Exhibit 3.

8 A Yes, sir.

9 Q O.K. I would like you to open up to  
10 that page.

11 A O.K.

12 Q Will you identify that for us?

13 A It's a written statement voluntarily given  
14 by Kevin at approximately 9:10 A.M.,  
15 morning of March 8, in my office.

16 Q O.K. Will you read the first line of  
17 Mr. Vanginderen's statement to us?

18 A "I, Kevin G. Vanginderen, admit to taking  
19 a few books, a calculator and two small  
20 cassette decks from Fernow Hall."

21 Q O.K. I direct your attention to the fourth  
22 line up from the bottom, beginning, "Wittner."  
23 Will you please read that for us?

24 A "Wittner: How did you gain entrance into  
25 Fernow Hall? Vanginderen: A tunnel leading

1 from the basement of Bradfield Hall to Fernow,  
2 which is unlocked. I gained entrance through  
3 it. Wittner: The room you took the books  
4 from in Fernow, were the rooms locked?  
5 Vanginderen: No. The rooms I went into  
6 on the main corridor were unlocked. The  
7 ones at the ends of the corridor had spaces  
8 above the doors, which I jumped."

9 Q O.K. I have no further questions for  
10 Lieutenant Boice. Do any of the Grand  
11 Jurors have any questions? Thank you,  
12 sir.  
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Richard Baker

1           RICHARD BAKER, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman  
3 of the Grand Jury, testified as follows:

4           EXAMINATION BY MR. MULVEY:

5           Q     Would you state your name and address for  
6 the record, please, sir?

7           A     Richard Baker. My home address is  
8 134 Judd Falls Road, Ithaca.

9           Q     O.K. Are you employed, sir?

10          A     I'm a graduate student at Cornell University.

11          Q     O.K., Mr. Baker, did there come a time  
12 when you made a report to the Cornell Public  
13 Safety regarding some items that were miss-  
14 ing from your offices?

15          A     Yes. I made a report on February 14th that  
16 some items were missing.

17          Q     Can you tell us where your office is  
18 located?

19          A     My office is 304G Fernow Hall. It's --

20          Q     O.K. Can you tell us what those offices  
21 are for?

22          A     They're solely for graduate students,  
23 the entire third floor.

24          Q     O.K. Can you tell us what you keep  
25 in that offices?



Richard Baker

1 A All the material that's associated with  
2 my studies, my books, papers, other items  
3 that you use.

4 Q In February what items did you notice  
5 missing?

6 A On February 13th I noticed that my cal-  
7 culator, TI 55, and a cassette tape deck  
8 that I borrowed were missing.

9 Q O.K. Did there come a time in March when  
10 you noticed anything missing from your  
11 office?

12 A Yes. Again on March 5th I found that there  
13 were some books missing.

14 Q O.K. Did you report that to the Cornell  
15 Public Safety?

16 A Yes, I did.

17 Q O.K. Do you keep your office locked?

18 A Yes, I do, always.

19 Q O.K. So when you leave your office on  
20 a daily basis, you lock it as you leave.

21 A Yes.

22 Q Do you know a man by the name of Kevin  
23 Vanginderen?

24 A No, I don't.

25 Q O.K. Had you ever given Kevin Vanginderen



1 permission to be in your office between the  
2 dates of February 10th, 1983 and February 12th,  
3 1983?

4 A No.

5 Q O.K. I ask you the same question for March 5,  
6 1983.

7 A I never did, no.

8 Q So you never gave him permission to be  
9 there on that date either.

10 A No.

11 Q O.K. Is that a public building?

12 A In what sense do you mean public?

13 Q Is it -- are the main doors to the building  
14 open at all times to the public?

15 A During the daytime they are. At night  
16 they're locked.

17 Q How does one gain access to the building?

18 A Only with a key.

19 Q O.K., and how do you obtain that key?

20 A Through the Administrative Manager of  
21 the apartment.

22 Q I see. Well, I have no further questions  
23 for Mr. Baker.

24 JUROR: Were your items ever  
25 recovered?

Richard Baker

1 A Yes, they were.

2 JUROR: From Vanginderen or  
3 you don't know where?

4 A To the best of my knowledge they were  
5 recovered by Public Safety from him, yes.

6 Q Any more questions? Well, thank you, sir.  
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## Instructions

MR. MULVEY:

I would ask you to  
separate the two counts for the  
following dates. I believe you  
heard testimony based on  
Mr. Vanginderen's admission that  
he made entry between the dates  
of February 10 and February 12, 1983.  
I would ask you to consider that  
as one date for a burglary. I  
would also ask you to consider  
March 5 as another date for  
Count 2 for burglary. You recall  
there was testimony regarding his  
statement that he made an entry  
on March 5. So those are the two  
counts. Any questions? O.K.  
Thank you.

CERTIFICATION

I, Dorothy M. Burdorf, duly appointed Grand Jury Stenographer, County of Tompkins, State of New York, do certify that in such capacity I took the minutes of the County Court Grand Jury convened on April 25, 1983, in the within matter of The People of the State of New York against KEVIN VANGINDEREN; that I have transcribed the same, and the foregoing is a true copy of such transcript, to the best of my ability, and of the whole thereof.

Dorothy M. Burdorf

file

83-1136

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

ADAMS, THEISEN & NASH

MAY 25 3 48 PM '83

ATTORNEYS AND COUNSELORS AT LAW

301 THE CLINTON HOUSE

103 WEST SENECA STREET

ITHACA, NY 14850

607-272-3442

HENRY W. THEISEN  
RALPH W. NASH

STEPHEN M. BOWMAN

ARMAND L. ADAMS  
1911-1983

May 25, 1983

Hon. Benjamin J. Bucko  
Tompkins County District Attorney  
Tompkins County Courthouse  
Post Office Box 326  
Ithaca, New York 14850

Re: People v. Vanginderen

Dear Ben:

My client has asked me again whether there is any possibility of his meeting with you personally on this matter in an effort to resolve it. If such is not possible, he would like to be arraigned as soon as possible, so that it will interfere minimally with his employment.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH

Ralph W. Nash

RWN/dh

5/27/83

Ralph

The matter has been presented to the grand jury and the indictment will be handed up next Tuesday.

Ben

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

-----  
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff

vs.

INDICTMENT

KEVIN G. VANGINDEREN,

Index No. 83-46

Defendant  
-----

COUNT I

The Grand Jury of the County of Tompkins and State of New York, by this Indictment, hereby accuses KEVIN G. VANGINDEREN of the crime of BURGLARY IN THE SECOND DEGREE in violation of Section 140.25 of the Penal Law of the State of New York, committed as follows:

Between the hours of 12:00 A.M. on February 10, 1983 and 11:59 P.M. on February 12, 1983, the exact time and date being unknown, at Fernow Hall in the City of Ithaca, County of Tompkins and State of New York, the said KEVIN G. VANGINDEREN did knowingly enter or remain unlawfully in said building with intent to commit a crime therein.

COUNT II

The Grand Jury of the County of Tompkins and State of New York, by this Indictment, hereby accuses KEVIN G. VANGINDEREN of the crime of BURGLARY IN THE SECOND DEGREE in violation of Section 140.25 of the Penal Law of the State of New York, committed as follows:

Between the hours of 12:00 A.M. and 11:59 P.M. on March 3, 1983, the exact time being unknown, at Fernow Hall in the City of Ithaca, County of Tompkins and State of New York, the said KEVIN G. VANGINDEREN did knowingly enter or remain unlawfully in said building with intent to commit a crime therein.

Signed this 7th day of June, 1983 in the City of Ithaca, County of Tompkins and State of New York.

s/Carol T. Dickinson

s/Benjamin J. Bucko

FOREMAN

DISTRICT ATTORNEY

DISTRICT ATTORNEY  
TOMPKINS COUNTY  
ITHACA, NEW YORK 14850

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

JUL 15 1 29 PM '83

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK, :

-vs- :

NOTICE OF MOTION

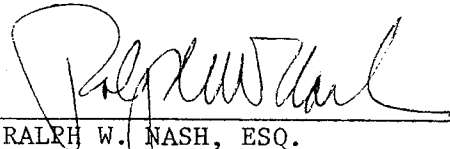
KEVIN G. VANGINDEREN, :

Indictment No. 83-46

Defendant. :

PLEASE TAKE NOTICE that upon the annexed Affidavit of Ralph W. Nash, sworn to the 15th day of July, 1983, the Exhibits attached thereto and all prior proceedings herein, the undersigned will move this Court at a Criminal Motion Term thereof to be held on the 1st day of August, 1983, at 9:30 A.M., or as soon thereafter as counsel may be heard for Orders on behalf of the Defendant (A) for dismissal of the indictment as defective; (B) for inspection of the Grand Jury minutes and for dismissal of the indictment for legal insufficiency of the evidence; (C) for dismissal in the interests of justice; (D) for suppression of the statements allegedly made by Defendant; (E) for discovery pursuant to a Demand to Produce; and (F) for such other and further relief as to this Court may seem just and proper.

DATED: July 15, 1983

  
RALPH W. NASH, ESQ.

Attorney for Defendant  
Office and P.O. Address:  
ADAMS, THEISEN & NASH  
301 The Clinton House  
103 West Seneca Street  
Ithaca, New York 14850  
Tel.: (607) 272-3442

TO: HON. BENJAMIN J. BUCKO  
Tompkins County District Attorney  
Office and P.O. Address:  
Tompkins County Courthouse  
Post Office Box 326  
Ithaca, New York 14850



STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs- :

KEVIN G. VANGINDEREN, :

Defendant. :

AFFIDAVIT

Indictment No. 83-46

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF TOMPKINS )

RALPH W. NASH, being duly sworn, does depose and say:

1. That he is the attorney for the Defendant herein and is fully familiar with the facts and circumstances of this case.

2. That the Defendant was arraigned on the above numbered Indictment on June 10, 1983, and entered a plea of not guilty to both counts of the Indictment at that time.

3. At arraignment, your deponent was directed to file pre-trial motion papers on or before July 15, 1983, making the motions returnable at the next appropriate motion term of this Court.

MOTION TO DISMISS INDICTMENT AS DEFECTIVE:

4. Indictment No. 83-46 charges the Defendant with two counts of Burglary in the Second Degree upon identical factual allegations that the Defendant "did knowingly enter or remain unlawfully in said building (Fernow Hall) with the intent to commit a crime therein."

5. Said factual allegation does not substantially conform to the requirements for indictments as provided in the Criminal Procedure Law

6. As can be seen by Exhibit "A" attached hereto, no factual allegation consistent with the crime charged can be made

MOTION TO INSPECT THE GRAND JURY MINUTES AND DISMISS INDICTMENT  
ON GROUND OF INSUFFICIENCY OF GRAND JURY EVIDENCE:

7. Count I of the Indictment alleges that the Defendant committed a burglary sometime within a 72-hour period commencing at midnite on February 10, 1983, and concluding at one minute to midnite on February 12, 1983. It appears therefrom that no evidence was introduced to the Grand Jury as to the actual entry of and/or failure to leave Fernow Hall of the Defendant.

8. As appears from Exhibit "A" attached hereto, Fernow Hall was open to the public during most of the period in which it is alleged that the burglary occurred.

9. Upon information and belief, therefore, it is contended that no evidence was submitted to the Grand Jury that the Defendant did knowingly enter or remain unlawfully in Fernow Hall as alleged in the Indictment.

10. Upon the aforesaid information, the People could not meet its burden of proof upon the charge stated in Count I of the Indictment or any lesser included charge thereof

11. Upon the same argument, the People likewise could not meet its burden of proof upon the charge stated in Count II of the Indictment or any lesser included charge thereof

MOTION TO DISMISS IN THE INTERESTS OF JUSTICE:

12. At the time of his arrest in this matter, Kevin Vanginderen was a senior at Cornell University. He has subsequently graduated and is looking for permanent employment.

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK

13. During his entire attendance at Cornell University Kevin was beset by economic problems, which said problems do not justify any wrongdoing, but do offer some explanation thereof. Your deponent believes that this case presents an excellent opportunity for a dismissal in the interests of justice, (if this Indictment is not dismissed because of the foregoing legal contentions), because of the following factors which are arranged in the order provided by Criminal Procedure Law §210.40:

(a) The offense involved constitutes at most a petty theft with no overtones of threat to persons or their residences, or unlawful entry into any building.

(b) The harm caused by the offense is limited to the transitory loss of personal property of minimal value.

(c) The evidence of guilt of a burglary as charged in the Indictment is minute, while the evidence of a petty theft rests solely upon the admission of Defendant, which may be ruled inadmissible.

(d) The Defendant Kevin Vanginderen has no prior criminal record, nor as can be seen by Exhibit "B" attached hereto, any record of wrongdoing at Cornell University. He has worked to the best of his ability to obtain a college diploma from Cornell University and he has worked to support himself with very limited assistance from his parents during this period. See Exhibit "B" and "C".

His character is such that he suffers sincere remorse for any theft he may have committed, and it is certainly to be expected that a recurrence of such activity will never happen; this, without the necessity of imposing a criminal conviction and attendant punishment. A criminal conviction will have prohibitive effect on Kevin's future at this critical time of seeking employment after graduation. His Indictment in this matter has already caused him considerable problems in this regard.

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK

It is submitted that the circumstances of this case and the character of the Defendant made this case an ideal one for diversion referral, which was denied by the District Attorney's Office.

(e) Your deponent believes that the law enforcement officials at Cornell University unfairly and unconstitutionally wrested a confession from Defendant by arresting him at his residence in the early morning hours and threatening to prosecute him for several serious thefts at Cornell University if he did not make a full confession. In addition, it appears that the District Attorney's Office has over-indicted Kevin based upon the facts of this case.

(f) No positive purpose and effect can be visited upon the Defendant by a felony sentence in this matter. Kevin's character is such that it has reacted tremendously to the shame and indignity of a publicized arrest and prosecution. To visit upon him the stigma of a felony conviction at this critical time of his life would serve no useful purpose and would only show vindictiveness and failure to make even the most basic observations regarding human behavior.

(g) It is respectfully contended that the public does believe that "the quality of mercy is not strained." It is respectfully submitted that the public is in favor of a first-time offender with an otherwise unblemished and exemplary record getting a break. To brand every first-time offender as a criminal would be counter-productive. The impact of a dismissal upon the confidence of the public in the criminal justice system would be salutary.

(h) There would be no adverse impact of a dismissal on the safety or welfare of the community. Dean Drinkwater, who speaks on behalf of the Cornell community, certainly evidences no concern on this matter and recommends liberal treatment of Kevin's case. Considering Kevin's character as therein attested and proven by his past conduct, no negative impact exists.

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK

Based upon all of the foregoing, your deponent believes that a dismissal in the interests of justice is indeed appropriate in this case, if this Indictment is not for other reasons dismissed.

MOTION FOR SUPPRESSION OF STATEMENT:

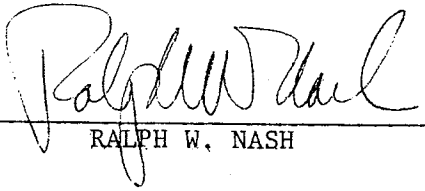
14. If the Indictment is not dismissed in this matter upon the foregoing motions, your deponent does request a hearing to determine the admissibility of certain statements allegedly made by the Defendant herein.

15. That your deponent has been served with a notice of intent to use admissions, the original of which has been filed in the County Clerk's Office and it is as to these alleged statements that your deponent requests an Order of Suppression upon the basis that they were unconstitutionally obtained from the Defendant, and/or taken from the Defendant after he had been unconstitutionally arrested or otherwise restricted in his freedom.

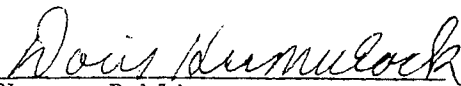
MOTION FOR DISCOVERY:

16. Attached hereto and made a part hereof, as Exhibit "D", is the Demand to Produce made pursuant to CPL §240.20. While I do not anticipate that the People will refuse to comply with these demands, I here incorporate these Demands in order that they may be before this Court for a ruling pursuant to CPL §240.40 in the event of the People's refusal.

17. Your deponent reserves the right to amend or supplement this motion if made necessary or appropriate by future disclosure by the District Attorney.

  
RALPH W. NASH

Sworn to before me this  
15th day of July, 1983.

  
Notary Public

DORIS HUMMELOCK  
Notary Public, State of New York  
111 E. 42nd St.  
New York, N.Y. 10017

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs- :

KEVIN G. VANGINDEREN, :

Defendant. :

AFFIDAVIT

Indictment No. 83-46

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF TOMPKINS )

ELIZABETH DEMPSEY, being duly sworn, does depose and say:

1. That she is the Administrative Manager of the School of Natural Resources at Cornell University in Ithaca, New York.

2. That Fernow Hall, located on the campus of Cornell University in Ithaca, New York is operated by the School of Natural Resources/ which is a statutory college under the jurisdiction of the State of New York.

3. That Fernow Hall contains academic offices, classrooms and laboratories only and contains no residential areas for either student or faculty living.

4. That Fernow Hall is open to the general public on weekdays during the academic school year from the hours of 6:00 A.M. to 5:00 P.M. daily.

5. That there were no academic vacation periods on Thursday, February 10, 1983; Friday, February 11, 1983; or Thursday, March 3, 1983, and Fernow Hall was open to the general public from the hours of 6:00 A.M. to 5:00 P.M. on those days.

*Elizabeth Dempsey*  
ELIZABETH DEMPSEY

Sworn to before me this

21<sup>st</sup> day of June, 1983.

Notary Public

RALPH W. NASH  
Notary Public, State of New York  
No. 02 NA 4460490, Reg. in Tompkins County  
My Commission Expires March 30, 1984

EXHIBIT F, PAGE 76

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK



OFFICE OF THE DEAN OF STUDENTS  
103 BARNES HALL  
ITHACA, NEW YORK 14853  
(607) 256-4221

26 April, 1983

Ralph W. Nash Esq.  
Adams, Theisen & Nash  
301 Clinton House  
103 West Seneca Street  
Ithaca  
New York 14850

Dear Mr. Nash:

I am happy to comply with your request for a general letter of reference concerning Kevin Vanginderen, who is currently a Senior in the College of Agriculture and Life Sciences.

I have known Mr. Vanginderen for nearly three years as a result of inquiries he made concerning eligibility for student employment. Our acquaintance has not been regular in that he appears to have had no difficulties as a student and has not had to use the resources of the Dean of Students office. Consequently, I have asked about his status and am informed by College officials that he has made steady progress towards his degree and has a sound record in terms of behavior.

At the time of our initial discussion, I was impressed by his concern that he should be able to find employment at Cornell and be able to underwrite some of his educational costs--in short, to stand on his own two feet. Family circumstances made it necessary that he should do so, and he showed initiative in pursuing all options. From recent conversations, I gather that family financial constraints are still a problem--I know that these constraints are real--and contributed to his actions.

Mr. Vanginderen seems to me to be a generally well-balanced young man, not an outstanding scholar, but a person who has worked at his studies and who has participated in normal campus activities. He seems to recognize that what he did was wrong and has been very open in confronting the extent of his error, although it would have been easy for him not to do so. This openness is in character and coincides with my earlier impressions of him.

Please do not hesitate to call me if you have further questions.

Sincerely,

David Drinkwater  
Dean of Students.



DEPARTMENT OF PHYSICAL EDUCATION AND ATHLETICS  
INTRAMURAL DIVISION

HELEN NEWMAN HALL

256-2315

RECEIVED

MAR 25 1983

ADAMS & THEISEN

March 24, 1983

ALAN E. GANTERT, *Director*

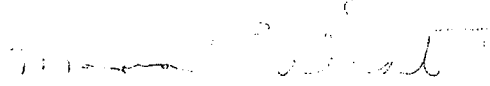
MARIA L. WEST,  
*Associate Director*

Mr. Ralph Nash  
Attorney at Law  
103 W. Seneca Street  
Ithaca, New York 14850

Dear Mr. Nash:

This letter is in answer to your request that I state in writing that Kevin G. Vangindren has been employed in this department for the past several years as an Equipment Manager for Intramural Ice Hockey and Box Lacrosse.

Sincerely yours,



Maria L. West  
Associate Director of Intramural Sports

mlw:m

Exhibit "C"

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs-

DEMAND TO PRODUCE

KEVIN G. VANGINDEREN,

Indictment No. 83-46

Defendant. :

TO: HON. BENJAMIN J. BUCKO  
Tompkins County District Attorney

Pursuant to CPL §240.20, DEMAND is herewith made that you supply or make available to the undersigned for inspection, photographing, copying and/or testing the following property:

(a) Any written, recorded or oral statement of the Defendant, and of a Co-Defendant to be tried jointly, made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him;

(b) Any transcript of testimony relating to the criminal action or proceeding pending against the Defendant, given by the Defendant, or by a Co-Defendant to be tried jointly, before any Grand Jury;

(c) Any written report or document, or portion thereof, concerning a physical or mental examination, or scientific test or experiment, relating to the criminal action or proceeding which was made by, or at the request or direction of a public servant engaged in law enforcement activity, or which was made by a person whom the Prosecutor intends to call as a witness at trial, or which the People intend to introduce at trial;

(d) Any photograph or drawing relating to the criminal action or proceeding which was made or completed by a public servant engaged in law enforcement

EXHIBIT "D"

activity, or which was made by a person whom the Prosecutor intends to call as a witness at trial, or which the People intend to introduce at trial;

(e) Any other property obtained from the Defendant, or a Co-Defendant to be tried jointly, and any property which will be alleged was stolen by Defendant.

(f) Any tapes or other electronic recordings which the Prosecutor intends to introduce at trial, irrespective of whether such recording was made during the course of the criminal transaction;

(g) Anything required to be disclosed, prior to trial, to the Defendant by the Prosecutor, pursuant to the constitution of this State or of the United States;

(h) The approximate date, time and place of Defendant's arrest.

DEMAND is further made that any refusal to supply any of the demanded material be made in writing setting forth the grounds for such refusal pursuant to CPL §240, and that a copy of such writing be served upon the undersigned and filed with the Court within ten (10) days from receipt by you of this Demand.

DATED: July 15, 1983

RALPH W. NASH, ESQ.  
Attorney for Defendant  
Office and P.O. Address:  
301 The Clinton House  
103 West Seneca Street  
Ithaca, New York 14850  
Tel.: (607) 272-3442

"D-2"

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

vs. :

MEMORANDUM OF LAW

KEVIN G. VANGINDEREN, :

Indictment No. 83-46

Defendant. :

MOTION TO DISMISS INDICTMENT AS DEFECTIVE

Criminal Procedure Law §210.20(a) provides for dismissal of an indictment or any count thereof upon the ground that "such indictment or count is defective, within the meaning of section 210.25." Criminal Procedure Law §210.25(1) provides that an indictment or count thereof is defective when "it does not substantially conform to the requirements stated in article two hundred." Criminal Procedure Law §200.50(7) provides that the indictment must contain with respect to each count, "facts supporting every element of the offense charged and the defendant's commission thereof."

Indictment No. 83-46 charges the Defendant with two counts of Burglary in the Second Degree upon identical factual allegations that the Defendant "did knowingly enter or remain unlawfully in said building (Fernow Hall) with the intent to commit a crime therein." Said allegations are insufficient and render the indictment defective for failure to allege an element of the offense of Burglary in the Second Degree, to wit: that the building is a dwelling. Penal Law §140.25. Without such allegation and proof thereof, a defendant cannot be convicted of the crime of Burglary in the Second Degree. See Practice Commentaries to McKinney's Penal Law §140.25 p. 46-48 main volume.

Recent Court of Appeals decisions relaxing standards for allegations to support an indictment have not altered the necessity for an indictment to comply with CPL §200.50 nor the necessity of alleging in the indictment every material element of the crime charged. See People v. Iannone 45 NY2d 589 at page 598 where the requirements of CPL §200.50 are specifically approved as fulfilling the constitutional protections of prosecution by indictment; and at page 600 wherein the Court states that "an indictment will be jurisdictionally defective if... it fails to allege that a defendant committed acts constituting every material element of the crime charged."

It is clear from the indictment that the People did not allege the material element of the crime of Burglary in the Second Degree that the building entered was a dwelling. It is also clear from the Affidavit attached to the Defendant's motion papers as Exhibit "A" that no allegation could in fact be made, as no one dwells in Fernow Hall. Further, the indictment cannot be amended to allege the charge of Burglary in the Third Degree for two reasons. First, the People have not so moved. Criminal Procedure Law §210.25(1). Secondly, an indictment may not be amended "for the purpose of curing: (a) a failure thereof to charge or state an offense; or (b) legal insufficiency of the factual allegations." CPL §200.70(2). This, of course, accords with the holding in Iannone, supra, that an indictment defective in these regards is jurisdictionally defective.

MOTION TO INSPECT THE GRAND JURY MINUTES AND  
DISMISS INDICTMENT ON GROUND OF INSUFFICIENCY OF GRAND JURY EVIDENCE

CPL §210.20(1)(b) provides that an indictment or any count thereof may be dismissed upon the ground that "the evidence before the grand jury was not legally

sufficient to establish the offense charged or any lesser included offense."

Both Burglary in the Second Degree and Burglary in the Third Degree require that a person "knowingly enters or remains unlawfully in a building with intent to commit a crime therein." Penal Law §140.25 and §140.20. As can be seen from the indictment and the Affidavit attached to Defendant's motion papers as Exhibit "A", the People have failed to allege and provide proof, prima facie, that Defendant knowingly entered or remained unlawfully in Fernow Hall, which is an essential element of the crime of burglary. People v. Letko 60 AD2d 661, reversed on other grounds 47 NY2d 257; and People v. Miles 85 AD2d 610 (2nd Dept., 1981).

It seems clear that the indictment in this matter could support only a charge of larceny in Fernow Hall. Larceny is not a lesser included offense of burglary. Rather criminal trespass is. See Practice Commentaries to McKinney's Penal Law §140.20 and §140.25, main volume. Larceny is not a lesser included offense of burglary since it is possible to commit a burglary without committing a larceny (a building may be entered with intent to commit a crime without committing a larceny). CPL §1.20(37) and People v. Brown 53 NY2d 979(1981).

MOTION TO DISMISS IN THE INTERESTS OF JUSTICE

Defendant's affidavit and supporting exhibits provide ample support for a dismissal in the interests of justice in this case, if the indictment is not dismissed for other reasons. Such a dismissal has "a respected place in common law... its thrust, even to the disregard of legal or factual merit, has been "to allow the letter of the law gracefully and charitably to succumb to the spirit of justice." People v. Rickert 58 NY2d 122(1983). It is respectfully contended

that the facts of this case do not warrant a felony conviction for Kevin G. Vanginderen and the effects of same would not be salutary. It is precisely the blanket policy of the District Attorney's Office and the failure to consider individual factors which warrants judicial correction in this matter. See Rickert, supra. A hearing is respectfully requested upon this motion. People vs. Clayton 41 AD2d 204 (Third Dept., 1973).

---

ADAMS, THEISEN & NASH  
Ralph W. Nash, Esq. of Counsel  
Attorneys for Defendant  
Office & P.O. Address:  
301 The Clinton House  
Ithaca, New York 14850  
(607)-272-3442

ADAMS & THEISEN - ATTORNEYS AT LAW - ITHACA, NEW YORK



THE DISTRICT ATTORNEY OF TOMPKINS COUNTY

Tompkins County Courthouse  
P.O. Box 326  
Ithaca, New York 14851-0326  
(607) 274-5461

BENJAMIN J. BUCKO  
District Attorney

July 21, 1983

Assistant District Attorneys:

Frank Smithson  
William A. Lange, Jr.  
John Alden Stevens  
Robert C. Mulvey  
Pamela A. Clermont

Ralph Nash, Esq.  
The Clinton House  
Ithaca, NY 14850


Re: People v. KEVIN G. VanGINDEREN  
Indictment No. 83-46  
Our File No. 83-1136

Dear Ralph:

Enclosed please find the People's Answering Affidavit  
with respect to the above entitled matter.

By copy of this letter I have today filed the original  
of the same with the Tompkins County Clerk.

Very truly yours,

  
ROBERT C. MULVEY, ESQ.  
Assistant District Attorney

RCM/dk1

Enclosure

cc: Tompkins County Clerk

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

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THE PEOPLE OF THE STATE OF NEW YORK,  
  
Plaintiff

ANSWERING AFFIDAVIT

vs.

Index No. 83-46

KEVIN G. VanGINDEREN,

Defendant

---

STATE OF NEW YORK :  
: ss.  
COUNTY OF TOMPKINS :

ROBERT C. MULVEY, being duly sworn, deposes and says:

1. That he is an Assistant District Attorney in and for the County of Tompkins and State of New York and he makes this Answering Affidavit in response to the Defendant's Notice of Motion returnable on August 1, 1983.

SUFFICIENCY OF INDICTMENT

2. That your deponent denies the allegations set forth in Paragraphs 4 and 5 of Attorney Nash's Affidavit and submit that both counts of the Indictment are sufficient pursuant to the requirements of the Criminal Procedure Law.

3. That the definition of a building as set forth in Article 140 of the Penal Law establishes that a factual allegation consistent with the crime can be made.

SUFFICIENCY OF GRAND JURY EVIDENCE

4. That the evidence presented to the Grand Jury with respect to both Counts I and II consisted of full and detailed admissions by the Defendant corroborated by the testimony of others.

5. That "Exhibit A" submitted by the Defendant is irrelevant to this prosecution inasmuch as the burglaries occurred in locked, private offices within Fernow Hall. The Defendant may request a Bill of Particulars to amplify the Indictment. Further, the Defendant is fully aware of the nature of the charges against him by virtue of his detailed confession.

6. That Attorney Nash has failed to set forth the grounds for his information and belief as set forth in Paragraph 9.

INTERESTS OF JUSTICE

7. That the People oppose dismissal of the Indictment in the interests of justice.

8. That an "explanation" for wrongdoing is insufficient unless it constitutes actual physical duress, coercion or insanity. The allegation that the Defendant suffered from economic duress and therefore deserves sympathy while attending one of the most expensive private universities in the United States is ludicrous. Adjudication of felony charges with respect to a Cornell student must be based on the same factors as those applied to other criminals in Tompkins County.

9. That the full confession was obtained by law enforcement officials in full compliance with constitutional standards and was not "unfairly and unconstitutionally wrested" from Defendant.

10. The District Attorney's Office has not over-indicted Mr. VanGINDEREN as is shown in the evidence presented to the Grand Jury.

11. The District Attorney's Office is not vindictive and it is submitted that Attorney Nash's sworn allegations in that regard and his allegations about "failing to make even the most basic observations regarding human behavior" are highly inappropriate and should be stricken from the record of this case.

#### STATEMENT

10. The People consent to an immediate Huntley Hearing so that the case can go to trial forthwith.

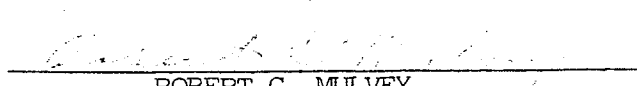
#### DISCOVERY

11. a) Previously provided.  
b) Not applicable.  
c) Not applicable.  
d) Not applicable.  
e) A notice pursuant to Section 450.10 of the Penal Law was made and the Defendant and his attorney has failed to take any steps to inspect, photograph or appraise the property. Thus, the deponent requests an Order permitting return to the lawful owners.

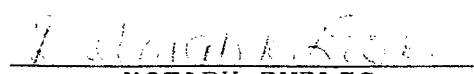
f) Not applicable.

g) The deponent is fully aware of the prosecutor's  
continuing duty to disclose such material.

h) Arrest: 3/8/83  
9:00 A.M. (approximately)  
Ithaca, New York

  
ROBERT C. MULVEY

Sworn to before me this  
21st day of July, 1983.

  
NOTARY PUBLIC

DEBORAH K. LISK  
Notary Public, State of New York  
No. 4733815  
Qualified in Tompkins County  
Term Expires March 30, 1984

VAN GINDEREN

MOVE TO

AMEND INDICTMENT - FROM B<sup>2</sup> TO

- 1) instructions to Grand jury were for B<sup>3</sup>
- 2) facts can only show B<sup>3</sup>
- 3) CPL 200.70 only has amendment which changes the theory of prosecution as reflected in evidence before Grand jury which filed it  
TAYLOR 43 AD2d 519 (1973)  
~~trial~~ Court amend to charge crime other than found by grand jury

ERROR (OBVIOUS)

NOT

INADVERTENT CITATION OF STATUTE  
NO PREJUDICE

ADAMS, THEISEN & NASH

ATTORNEYS AND COUNSELORS AT LAW  
301 THE CLINTON HOUSE  
103 WEST SENECA STREET  
ITHACA, NY 14850  
607-272-3442

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

AUG 4 2 14 PM '83

HENRY W. THEISEN  
RALPH W. NASH

STEPHEN M. BOWMAN

ARMAND L. ADAMS  
1911-1983

August 3, 1983

Hon. Benjamin J. Bucko  
Tompkins County District Attorney  
Post Office Box 326  
Ithaca, New York 14850

Re: People v. Kevin G. Vanginderen

Dear Ben:

This letter will confirm my telephone message of yesterday, wherein I indicated that Kevin will agree to plea to a misdemeanor in City Court in lieu of having this matter re-submitted to another Grand Jury, upon condition that the People agree to recommend no harsher penalty than probation upon his plea.

I am enclosing a copy of my proposed Order submitted to Judge Kepner today. I will be on vacation until August 15, but have several other matters pending that morning. Kevin and I would like to appear in City Court on Monday, August 22, for purposes of the aforementioned plea. If this is agreeable, I will make arrangements with City Court.

Regarding the actual charge which Kevin will plead to in City Court, I suggest either Criminal Trespass 3° or Petite Larceny. I note that Criminal Trespass 2° requires entry into a dwelling.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH

Ralph W. Nash

RWN/dh  
Enclosures



**ADAMS & THEISEN**  
ATTORNEYS AND COUNSELORS AT LAW  
THE CLINTON HOUSE, SUITE 301  
103 WEST SENECA STREET  
TELEPHONE (607) 272-3442

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

AUG 4 2 14 PM '83

ARMAND L. ADAMS  
HENRY W. THEISEN  
RALPH W. NASH

ITHACA, NEW YORK 14850

August 3, 1983

Hon. George S. Kepner, Jr.  
Otsego County Office Building  
Cooperstown, New York 13326

Re: People v. Kevin G. Vanginderen  
Tompkins County Indictment No. 83-46

Dear Judge Kepner:

Please find enclosed proposed Order in this matter, pursuant to your Decision after oral argument at a Tompkins County Motion Term on August 1, 1983, in Ithaca, New York. I have provided a stamped, self-addressed envelope for your convenience in returning the signed Order.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH

Ralph W. Nash

RWN/dh  
Enclosures

cc: Hon. Benjamin J. Bucko ✓

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

AUG 4 2 14 PM '83

THE PEOPLE OF THE STATE OF NEW YORK :

-vs-

ORDER

Indictment No. 83-46

KEVIN G. VANGINDEREN, :

Defendant. :

The Defendant having duly moved this Court at a Motion Term thereof, held in and for the County of Tompkins on August 1, 1983, for an Order dismissing the Indictment herein upon the ground that it is defective under the Criminal Procedure Law, and having duly presented his Notice of Motion and Affidavit of Ralph W. Nash, Esq., duly verified July 15, 1983,

And the People having opposed said motion at said time and duly presented their Answering Affidavit of Robert C. Mulvey, Esq., duly verified July 21, 1983, and oral argument having been had at such Motion Term, and the Defendant having presented his Memorandum of Law thereon, and a Decision having been rendered at the conclusion of oral argument; now, after due deliberation, upon motion of Ralph W. Nash, Esq., attorney for Defendant, it is hereby

ORDERED that Indictment 83-46 charging the Defendant Kevin G. Vanginderen with two counts of Burglary in the Second Degree is DISMISSED as being defective under the Criminal Procedure Law, with leave to the People to re-submit the matter to another Grand Jury of this Court.

ENTER,

GEORGE S. KEPNER, JR.,  
Acting Tompkins County Judge

DATED: August , 1983

Cooperstown, New York

OFFICE OF SUPREME AND COUNTY COURT CLERKS  
STATE OF NEW YORK COUNTY OF TOMPKINS  
320 NORTH TIoga STREET  
ITHACA, NEW YORK 14850

NANCY M. JOCH  
CLERK COMBINED COURTS

PUBLIC SAFETY

SUPREME COURT  
COUNTY COURT

APR 11 1985

CORNELL

Sir:

Please take notice that the within is a true copy  
of an Order duly entered in the Office of the Clerk of  
Tompkins County.

Dated: March 5, 1985

Nancy M. Joch  
Chief Clerk III  
County of Tompkins  
320 North Tioga Street  
Ithaca, New York 14850

(X) To the Commissioner of Division of Criminal Justice Services  
(X) To the Commissioner of Cornell Safety Police Department  
(X) To the Commissioner of Department of Correction  
(X) To the District Attorney of Tompkins County  
(X) To the Sheriff of Tompkins County  
(X) To the Clerk of the Ithaca City Court  
To \_\_\_\_\_

Check One: ☐ CPL 160.50 (ACD) Seal Order (F/P will be retained\*)  
☒ CPL 160.50 Seal Order  
☐ CPL 160.55 Seal Order

COURT: County Court - Tompkins County

COURT ADDRESS: 320 North Tioga Street. Ithaca. New York 14850

DEFENDANT'S NAME: Kevin G. VanGinderen

DEFENDANT'S ADDRESS:

NYSID NUMBER: 5037768 J ARREST DATE: 3-8-83 DOB: 10-23-65 SEX: M

DOCKET/INDICTMENT/CASE NUMBER TO BE SEALED: 83-46

ARREST CHARGES TO BE SEALED: Burglary, Second Degree (2 counts)

RELATED DOCKET/INDICTMENT/CASE NUMBER NOT TO BE SEALED AND FINAL DISPOSITION:

- ☒ To Commissioner of Division of Criminal Justice Services  
☒ To Commissioner of Cornell Safety Police Department.  
☐ To Commissioner of  Dept. of Correction  
☒ To District Attorney of Tompkins County.  
☒ To Sheriff of Tompkins County.  
☐ To Clerk of the  Court.  
☒ To Federal Bureau of Investigation

The above captioned criminal action having on August 4, 19 83, been terminated in favor of the above named defendant in accordance with Section 160.50 or 160.55 of the Criminal Procedure Law and it appearing that no other criminal action or proceeding is pending against that person, it is ordered that every photograph, photographic plate or proof and all palmprints, and fingerprints, and all duplicates taken pursuant to Article 160 of the Criminal Procedure Law in regard to this action or proceeding be returned to such person or the attorney who represented him.\* Departments or Agencies who transmitted or otherwise forwarded copies of such to any agency of the United States or any other state or jurisdiction outside New York State shall request in writing that all copies be returned to the police department or law enforcement agency which transmitted or forwarded them and upon such return said department or agency shall return them as provided above. All official records and papers relating to the arrest or prosecution BE SEALED and not made available to any person or public or private agency, except as provided in section 160.50 (1) (d).

DEFENDANT'S ATTORNEY:   
Ralph Nash, Esq.  
 ATTORNEY'S ADDRESS: The Clinton House  
Ithaca, New York 14850

Enter,

(JUDGE ~~XXXXXXXXXX~~)

George S. Kepner, Jr.  
 Acting Tompkins County Judge

COURT SEAL